UNITED STATES DEPARTMENT OF EDUCATION

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PUBLIC HEARING ON REGULATION REFORM

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WEDNESDAY,
OCTOBER 4, 2017

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The public hearing met in the Barnard Auditorium, U.S. Department of Education, 400 Maryland Avenue, SW, Washington, D.C., at 9:00 a.m., Kathleen Smith, Acting Assistant Secretary for Postsecondary Education, presiding.

PRESENT:

KATHLEEN SMITH, Acting Assistant Secretary for Postsecondary Education, Office of Postsecondary Education
SOPHIA MCARDLE, Policy Analyst, Office of Postsecondary Education
GAIL MCLARNON, Deputy Assistant Secretary for Policy, Planning, and Innovation, Office of the Assistant Secretary for Postsecondary Education
ALSO PRESENT
RAYMOND ALVES
TANYA ANG, Veterans Education Success
JONATHAN ANDREWS
GISELA ARIZA, The Leadership Conference on Civil and Human Rights
DAVID BAIME, American Association of Community Colleges
DAVID BOUSQUET, International Association of Campus Law Enforcement Administrators
KEN BROOKER LANGSTON, Disciples Center for Public Witness
MELISSA BRYANT, Iraq and Afghanistan Veterans of America
QUINTIN B. BULLOCK, Community College of Allegheny County
GAYLYNN BURROUGHS, Feminist Majority Foundation
CHRISTOPHER CHAPMAN, AccessLex Institute
NEENA CHAUDHRY, National Women's Law Center
ANNIE E. CLARK, End Rape on Campus
EDWARD COLEMAN, parent
JENNIFER COLEMAN, parent
AMELIA COLLINS, UnidosUS
LESLIE COPELAND-TUNE, Ecumenical Poverty Initiative
JILL CREIGHTON, Association for Student Conduct Administration
CHERYL DOWD, WCET State Authorization Network
DANIEL ELKINS, Enlisted Association of the National Guard of the United States
FAITH FERBER, American University
SARA GARCIA, Center for American Progress
LINDSEY GARDNER, Ivy Tech Community College
CYNTHIA GARRETT, Families Advocating for Campus Equality
EMILY GARRETT, Feminist Majority Foundation
MARY GILMORE
ALEXIS GOLDSCHMIDT, Americans for Financial Reform
STEVE GUARDIANI, Career Education Colleges & Universities
PATRICIA HAMILL, Conrad O'Brien
CHARLOTTE HANCOCK, Center for American Progress
NEAL HELLER, American Association of Cosmetology Schools

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1323 RHODE ISLAND AVE., N.W.
WASHINGTON, D.C.  20005-3701
(202) 234-4433
www.nealrgross.com
MONICA HERK, Committee for Economic Development
TAMARA HILER, Third Way
WILLIAM HUBBARD, Student Veterans of America
BETHANY KEIRANS, Vietnam Veterans of America
ALISON KISS, Clery Center
PAM LIGHTFOOT, Parent
JULIANNE MALVEAUX, Bennett College
SEAN MARVIN, Veterans Education Success
KAREN MCCARTHY, National Association of Student
Financial Aid Administrators
JOHN MCDONALD, American Federation of Teachers, AFL-CIO
ALEX MOREY, Foundation for Individual Rights in
Education
CHRISTOPHER MUHA, KaiserDillon, PLLC
JULIE PELLER, Higher Learning Advocates
CHRISTOPHER J. PERRY, Stop Abusive and Violent
Environments
ELIZABETH RAMSY, American Federation of
Teachers, AFL-CIO
ASHLEY REICH, Liberty University
JAMEY RORISON, Institute for Higher Education
Policy
ERIC ROSENBERG, Rosenberg & Ball Co., LPA
TOM ROSSLEY, Parent
JEFF SCHRADER, Paul Mitchell Schools Franchise
Association
REID SETZER, Young Invincibles
JOSEPH SHAW, Council for Education
AARON SHENCK, PAPSA
NELSON E. SOTO, Union Institute and University
KAREN STRICKLAND, American Federation of
Teachers, AFL-CIO
ALISON STUART
KATHELEEN SULLIVAN, Attorney
HARPER JEAN TOBIN, National Center for
Transgender Equality
KAITLYN VITEZ, U.S. PIRG
HARRISON M. WADSWORTH, III, International
Education Council
RANDI WEINGARTEN, American Federation of
Teachers, AFL-CIO

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9:05 a.m.

MS. SMITH: Good morning.

ALL: Good morning.

MS. SMITH: Everybody's so serious.

It's going to be a great day.

(Laughter.)

MS. SMITH: All right. That's better.

Good morning, everyone. My name is Kathleen Smith and I am the Acting Assistant Secretary for the Office of Postsecondary Education and I am actually very pleased to welcome you to this public hearing, and I am very happy to be joined by my colleague Gail McLarnon, who's also from the Office of Postsecondary Ed.

This is, as you're probably aware, the second of two hearings that we are convening to receive input from the public on department regulations and guidance specifically related to postsecondary education programs that may be appropriate for repeal, replacement, modification. And this of course includes
regulations regarding student financial aid and discretionary grant programs.

Just for some background, these hearings supplement the effort to implement Executive Order 13777, Enforcing the Regulatory Reform Agenda signed by the President on February 24th of 2017, and this order established a policy to alleviate unnecessary regulatory burden on the American public and directs all federal agencies to establish a regulatory reform task force to evaluate existing regulations and make recommendations to the agency head regarding their repeal, replacement or modification. So that gives you some background on why we're here.

Furthermore, the task force is directed to seek input and assistance from affected entities, all of you guys. And to that end the Department has also previously solicited written comments from the public. And today we appreciate the opportunity to hear directly and personally from all of you for your suggestions in achieving these objectives.
The Department has also begun work in reducing postsecondary regulatory burdens by establishing two negotiated rulemaking committees to develop regulations to revise gainful employment rules and revise the regulations on borrower defense to repayment of federal student loans and other matters.

The Borrower Defense Negotiating Committee will begin in November, and the Gainful Employment will begin in December. And that's all been published in the Federal Register notices.

The deadline for nominations for negotiators to serve on these committees was September 29th. And again, we look forward to working with the communities on those important regulations.

So again, thank you for being here today and for giving us your time and your commitment to these important processes. Your perspectives will really help inform the work that we're going to do going forward.

So I'm going to give you just a few
housekeeping issues here. So for logistics, most of you have signed up. I think we may have one slot. So we are full for the entire day. So you each have five minutes to speak. And forgive me in advance, but we are going to keep you to that five minutes. So, when you hear that, please begin to wrap up. It is not to be disrespectful, but we need to give everybody the time that they signed up for.

If there's time sufficient at the end, and I'm not sure there will be, and there's time for a second round -- again don't -- I wouldn't expect that today -- we may be able to do that.

Also ask that you silence your phones. It's distracting obviously when someone's up here. This is a little distracting with lights and all that stuff. So we want to give everybody the respect that -- for their five minutes.

It's also important that you know that this is a public forum. So, right, phones, tweeting, all that stuff that I'm too old to appreciate, may be happening, so you just need to
be aware these are -- your comments will be likely
made public. They will also be transcribed and
will be published later. So just so you know that
what you say here today, what I'm saying here today
is all being recorded.

Again, I would just ask folks -- and
this is just me sort of off the record saying --
if you're going to videotape it, just again be
respectful of some people being a little bit
nervous up here and wanting to do a good job in their
speaking.

We have three scheduled breaks, one
this morning at 10:30, a lunch break -- and again,
all this is a little bit fluid, and then one in the
afternoon. So when you come up and you are going
to begin your presentation, please give us your
name and the organization from which you hail, and
who you're representing here today. And we look
forward to having you join us today. Thanks so
much.

MS. McLARNON: So our first speaker
today is Jamey Rorison. Thank you. Good morning.
MR. RORISON: Good morning.

Good morning, Acting Assistant Secretary Smith, Acting Deputy Assistant Secretary McLarnon. Thank you, everybody. Good morning. Appreciate the opportunity to share comments today to inform your evaluation of existing federal regulations.

My name is Jamey Rorison. I'm Director of Research and Policy at the Institute for Higher Education Policy, or IHEP. We're a non-profit, non-partisan organization that promotes college access and success especially for underserved students. Our team conducts high-quality research to address the challenges facing our postsecondary education system and to inform federal, state and institutional policy.

My comments today focus on regulations impacting college students, programs and institutions. At IHEP we recognize the importance of assessing the efficacy of existing federal regulations. While undertaking this assessment I have urged the task force to maintain regulations
that promote educational equity, protect students' civil rights, and implement programs designed to serve students. By ensuring the proper delivery of need-based financial aid programs, providing data to inform consumer choice and policy making, and protecting civil rights, federal regulations can foster student success. A number of regulations under the Higher Education Act, Civil Rights Act, Title IX and other federal legislation are in place to accomplish exactly these goals. Eliminating these regulations is tantamount to turning our backs on our students.

The Department must maintain regulations that administer essential Title IV financial aid programs for needy, hard-working students pursuing a college credential. These programs include the Federal Pell Grant, the Federal Supplemental Educational Opportunity Grant, or FSEOG, and Federal Work-Study Programs, which serve students who would otherwise be unable to afford college.

Work-Study, FSEOG and Pell are written
into statute, so while eliminating their associated regulations would not eliminate the programs themselves, it could make compliance more difficult for the Department and for institutions and could prevent many low-income students from accessing and persisting in college.

We also urge the Department to maintain regulations that promote the collection and use of high-quality postsecondary data. IHEP leads the Postsecondary Data Collaborative, a broad collection of organizations representing institutions, states, students, employers, privacy and security experts, and others, all committed to the use of high-quality data to improve student success and close equity gaps.

Students, policy makers, and institutions deserve to know which colleges and universities serve students well and which do not. Through required IPEDs reporting for Title IV institutions the Department helps to cast light on student enrollment, retention, completion, transfer out rates, financial aid information and
cost of attendance. Critically, graduation rates must continue to be disaggregated by race, gender and economic status.

We urge the Department to also maintain data reporting requirements mandated by the Civil Rights Act and Title IX, as well as regulations requiring institutions to calculate cohort default rates and to disclose debt and earnings information for programs at public, non-profit, and for-profit colleges to prepare students for gainful employment. Students need the data provided to the gainful employment rule to help them make informed choices about the potential return on their investment. The Department must also maintain current regulations that protect student privacy and outline parameters for acceptable data use.

The Department has a series of existing regulations that prohibit discrimination based on sex and age in programs or activities receiving federal financial assistance, as well as regulations that help the Department and colleges
and universities comply with the Civil Rights Act. Please commit to protecting students' civil rights by maintaining these regulations.

However, not all regulations should remain intact. Some impede postsecondary students' success. Right now individuals who have been incarcerated in federal or state prisons are ineligible to receive Pell Grants and individuals who have been convicted for the sale or possession of illegal drugs are prohibited from receiving any form of student aid at the federal level.

These laws and the regulations diminish reentry outcomes upon release despite clear evidence that recidivism rates drop significantly for individuals who earn postsecondary credentials while incarcerated.

We urge the Department to work with Congress to overturn these laws and then rescind their accompanying regulations.

As the Department's task force undertakes its next steps, please consider how existing regulations foster success along the
postsecondary continuum beginning with the information made available to aspiring students, continuing through their enrollment, completion, and finally their transition into the workforce.

May of the regulations I've addressed this morning ensure that our higher education system works for all Americans regardless of race, sex or economic status. These regulations also work to eliminate longstanding equity gaps. Conversely, some regulations hinder progress for underserved members of our community and should be eliminated after working with Congress to amend their underlying legislation. Ask yourselves what's best for students and keep those answers front and center.

The IHEP team welcomes the opportunity to serve as an ongoing resource to the Department. Thank you so much.

MS. SMITH: Thank you.

MS. McLARNON: Thank you. Our next speaker is Sara Garcia from the Center for American Progress.
MS. GARCIA: Good morning. I want to first thank the Department for the opportunity to speak at this hearing. My name is Sara Garcia and I am here to comment on behalf of the Center for American Progress.

The current regulations under review include critical rules that enforce strong consumer protections and guarantee civil rights. It is necessary, not optional, to protect students and taxpayers.

Every year the Department of Education provides nearly 130 billion in grants and loans to help 13 million students each year attend more than 6,000 colleges. This massive investment of public money means the Department of Education has an obligation to protect students and taxpayers. If anything, current regulations intended to protect consumers should be strengthened, not eliminated.

Therefore, CAP believes that the following regulations must remain. First, gainful employment. The gainful employment rule is a crucial measure for holding career training
programs accountable so they cannot receive substantial sums of taxpayer money without producing a meaningful return. If this regulation goes away, career training programs and schools could go back to ripping off students through low-quality programs and some will continue to engage in deliberate predatory marketing to low-income people and veterans.

The Department is currently failing to uphold its legal obligations with respect to this rule even as it plans to start a new regulatory process that requires it to negotiate in good faith. This rule has been negotiated twice and survived multiple court challenges. Simple dislike of the rule is not a sufficient rationale for eliminating it.

Second, incentive compensation. Incentive compensation regulations prohibit colleges from paying bonuses to recruiters in exchange for getting students to enroll. A previous attempt by the Bush administration in 2002 to weaken this rule resulted in colleges pursuing...
student enrollment through unethical and damaging recruiting tactics. Colleges and their recruiters also manipulated students by exploiting their insecurities in what was known as the pain funnel. Eliminating the rules that guard against such tactics will lead to a return of unjust practices for the sake of profit and at the expense of students.

Third, cash management. Cash management regulations protect students from being misled or forced into paying excessive fees to access their federal student aid dollars. These rules crack down on abusive banking products and ensure that student money goes towards education and not banking fees. Eliminating these rules will put students at the mercy of cash management companies looking to profit off financial aid dollars that should be going towards students' education.

It is also important the Department not eliminate important regulations based on a simplistic assessment of burden. Current
approaches to regulatory reform use a simplistic assumption that all burden is inherently bad. While some burden can and should be avoided, simply making colleges meet certain requirements to access taxpayer money is by no means unreasonable.

Eliminating all burden for the sheer sake of elimination is counterproductive. Efforts to reduce burden should take into consideration the purpose of a regulation and how it applies in all contexts. Regulations such as substantive change are necessary to maintain a quality higher education system.

In addition, some regulations generate critical information while protecting student privacy on the performance of our higher education system that is necessary for students and the public. Any regulatory rollback must maintain current data collections and public dissemination of that data to ensure students are well-served and taxpayer investment is well spent.

Additionally, all Department of Education civil rights rules and regulations are
both important and necessary. These regulations prevent schools and colleges from discriminating on the basis of race, gender, religion, or ability, among other protected categories. All students should be guaranteed equal access to educational opportunity, period.

In conclusion, repealing or replacing regulations for the sake of itself runs the risk of eliminating critical rules designed to protect students and taxpayers. In its review, the Department of Education should maintain rules that enforce strong consumer protections and guarantee civil rights. While regulations may cause some burden, burden alone is not an adequate reason for wholesale elimination. Congress should follow -- colleges -- excuse me -- colleges should follow basic rules in exchange for student and taxpayer money.

As the above examples show, an absence of strong regulations or failure to enforce them leads to real harm. Harm to students or taxpayers as a result of negligence on behalf of the
Department is a price that is simply too high to pay. Thank you.

MS. McLARNON: Thank you, Sara.

Our next speaker is Laura -- or rather Harper Jean Tobin.

MS. TOBIN: Good morning, acting Assistant Secretary, Acting Deputy Assistant Secretary, everyone here.

I'm with the National Center for Transgender Equality. I would like to associate myself with the comments of the preceding speakers and use my time to talk about Title IX.

I am here for the estimated 200,000 college-age Americans who are transgender and the 47 percent of them who are survivors of sexual assault.

I am here for the survivor who was sexually assaulted and stalked on campus and who wrote to NCTE, quote, the university didn't do anything to help me; instead it threatened to punish me. I lived in terror the entire time I was on campus.
I'm here for the transgender survivors who don't feel safe or comfortable calling the police because our research finds that 57 percent of transgender people don't.

I am here for the survivors who for many, many legitimate reasons don't choose to make a criminal complaint but do want some simple remedies on campus like making sure they don't have to share a class or a dorm with the person who assaulted them.

Contrary to the Secretary's recent assertions, there was never a -- an era of rule by letter under Title IX or other civil rights laws. The Department has issued letters, as it should, with a combination of explanation of case law and recommended best practices for decades. The letter published last month by the Department disregarded hundreds of thousands of comments from the public in a comment period that ended just two days previously.

Congress gave the Department the job of enforcing the law. It also gave the Department the
job of helping schools and students understand what the law is. Saying the words that every student is entitled to dignity and respect is important, but it is far short of the Department's job.

The Department it appears is not doing its job when it comes to LGBT students or when it comes to sexual violence. Instead, the Department's recent actions and statements have sowed confusion and served implicitly to promote discrimination.

I urge the Department to reconsider its current course and its recent announcements. I urge all of you at the Department to ensure that the Department stops promoting false equivalencies and the myth of an epidemic of false reports. I urge you to formally consider and respond to all of the comments already received on these and other topics before taking any rulemaking action. And I urge the Secretary to personally undertake a national listening tour to hear from survivors. I urge you at the Department to make unambiguously clear that schools cannot abuse students by forcing
them to personally face cross-examination by their
rapist as opposed to a representative and that
schools cannot abuse students in other ways that
the interim letter issued last month left unclear.

In closing, I urge you to make
unambiguously clear also what the courts have said,
that discrimination based on gender identity
violates Title IX. Thank you for your time.

MS. McLARNON: Thank you. Our next
speaker is Laura Dunn from SurvJustice. Laura
Dunn?

(No audible response.)

MS. McLARNON: Okay. I'm going to
move on to Tamara Hiler. Thanks.

MS. HILER: Hi. Good morning and
thank you for the opportunity to comment today on
the Department's review of regulations.

My name is Tamara Hiler and I'm a senior
policy advisor and higher education campaign
manager at Third Way, a think tank here in
Washington, D.C.

We all know that a credential beyond
high school has become a necessity in our changing economy. And as this Department moves forward today and in the coming months with its review of which regulations to repeal, replace and modify, we hope you keep in mind the critical role the federal government can and must play in making sure that students and taxpayers get value out of the investment they make in our higher education system each year.

And while we do not believe regulations alone are a silver bullet to remedy the challenges currently facing higher ed, I’m here today to talk briefly about how maintaining and strengthening the rules around three specific topics: gainful employment, accreditation, and the cohort default rate, can help ensure that the Department is upholding three baseline promises to the constituents it serves.

One, it's providing consumers with basic information about where to invest their time and money. Two, it's safeguarding taxpayer dollars, and three, it's protecting students from
attending the worst of the worst institutions.

Let's start with gainful employment, a rule that was put in place to weed out the programs that provide the least value to students by cutting off programs from federal funds that fail a basic debt to earnings test. In just its first year this rule has already proven to be an incredibly powerful consumer protection tool. The first set of data released by the Department uncovered 803 programs that failed the gainful employment metric because their former graduates, more than 115,000 of them, did not earn enough money to pay down their student loan debt. This includes 114 programs where the majority of graduates actually earned below the federal poverty line.

This data makes clear the powerful role gainful employment can play in warning students away from the lowest value programs on the market. Attempts to delay implementation and loosen enforcement mechanisms are both undermining the rule and harming millions of students. We urge the Department to leave the current gainful employment
regulations as is and instead work with Congress to ensure that all institutions are held to the same outcomes-based standards moving forward.

Now let's turn our attention to accreditation. Each year the federal government invests $130 billion in federal aid to colleges and universities, but right now our accreditation system, the watchdog for this investment, is lackluster when it comes to protecting students and taxpayers from spending a large amount of money at institutions that aren't actually helping kids get ahead.

In large part this is because the Higher Education Act asks the creditors to look mainly at input-based standards like program length, number of faculty and administrative capacity, but includes no information about how or what accreditors should measure in regards to student achievement as part of the accreditation process. To put it bluntly, the accreditation process cares more about how many books are in a library than how many students actually graduate. Some
institutions leave their students without degrees, underemployed and with unmanageable debt, yet they can still maintain full accreditation status.

To fix this the Department should continue to work with NACIQI to ensure that accreditors aren't approving low-performing institutions to participate in Title IV programs. It should also work to encourage legislation that not only requires accreditors to take student outcomes into account, but remove some of the compliance-based activities that do nothing to focus on student success.

Lastly, when looking at the cohort default rate we believe it is time for an update. This year only 11 out of the 5,000 institutions that participated in student loan programs lost Title IV eligibility as a result of CDR sanctions. In large part this is because institutions have figured out loopholes to help their students avoid going into default by encouraging students to instead enter into forbearance or deferment on their federal loans. Instead, the
Department should work with Congress to update CDR to instead measure the loan repayment rate at a given institution over a period of time. This would require the federal government to look at the percentage of students able to pay down at least one dollar on the principal of their federal loan over a certain period of time as opposed to just the number of defaults. This would be a more robust and reflective measure of students' financial health than just the students in dire straits, and protect students from attending institutions that make their students financially worse off.

In summary, as millions of new and returning students find themselves on campuses this month they are hopeful that their investment in higher education will result in a better life for themselves and for their families. Maintaining and strengthening rules that protect students and taxpayers will move us closer to this promise. Thank you.

MS. McLARNON: Thank you. Our next
speaker is Steve Gunderson, Career Education Colleges and Universities.

MR. GUNDERSON: Good morning. I am Steve Gunderson, President and CEO of the Career Education Colleges and Universities.

On September 20th we submitted a comprehensive document to the Department on regulatory reform. Our report consisted of 10 pages addressing no less than 21 specific regulations in need of review, possible reform and in some cases outright repeal.

We are not addressing today those regulations the Department is reviewing elsewhere under separate initiatives, but we do want to lift up specific regulations addressing four areas, the first of which is academic issues. The Department would do all of higher education a huge favor if you would simply repeal the current rule converting clock hours to credit hours. We believe the definition of credit hours was and remains best left in the hands of our nation's accreditors.

In today's postsecondary career
education new and updated programs are an essential part of equipping students with the most current skill demands, however, we cannot do that when the Department's ECAR timeline doesn't approve new programs in a timely manner.

Here is the great irony of the gainful employment regulation. When schools submit new programs for reviews that would comply with the goals of gainful employment, they can't get them approved. Some schools have waited almost two years.

In the area of financial aid we offer ten recommendations, and without going into deep detail in five minutes, I want to suggest the following this morning. The revised verification regulations have imposed significant new burdens on both the student and the school. This is especially the case for low-income students. The R2T4 process has become overly complex. Many of our students often need to stop and then restart their education journey because life or jobs get in the way. The current regulations ignore such
realities.

We all will benefit if the Department develops a clear tight definition of what constitutes a third-party servicer for loans. No school should deny a student loan monies needed for their education, but schools should be allowed to develop uniform policies equating loan limits to education costs in ways that protect the student, the school, and the American taxpayer.

Finally, we ask the Department to implement an appropriate and fair due process for schools in both their certification for program participation and in the use of HCM1 and HCM2. Quite frankly, there is no due process for schools today in either of these regulations.

Our third section looks at the administration of the partnership between schools and our government. We all seek an environment where the Department and schools can work together in the interest of best serving our students. Here are some ways to improve this relationship.
The incredible difficulty in finding a consensus on state authorization may be telling us that this simply is not the appropriate federal role. Let the states handle it.

The previous Department issued a 203 page document designed to uniquely and exclusively regulate the audits of proprietary schools. It is obviously guided more by ideological hostility towards the sector than any appropriate modernization of the guide. We ask you to revise it. Please develop one common set of metrics and data for use in providing students and the public information.

We currently have different requirements for GE, the Financial Aid Shopping Sheet, the College Scorecard and the Net Price Calculator. There are clear deadlines for schools to provide data during program reviews. Unfortunately, there are no similar guidelines or deadlines for the Department to respond. Schools should not be left wondering what the status of their review is.
Our final section looks at regulations governing a change in a school's ownership or operations. The past administration's priority was closing schools regardless of its impact on students. We suggest you should prioritize keeping students in schools, progressing towards completion of their degrees. And if this were our public priority, many of the protocols in the regulatory side would change.

For example, you would allow buyers to buy individual campuses, not every campus within an OPE ID number. You would not require that new buyers accept the liabilities of the previous owners. Also, you would not condition a school's participation in Title IV to accepting the liabilities of the previous owner. The only one hurt in such a rule is the students left on the street.

Please review the current regulations or interpretations defining persons in control. The current interpretation unfairly hurts many qualified professionals with no financial
management role in a previous school from continuing to serve students in our sector.

In conclusion, your task is significant. We applaud you for the commitment and we encourage you every step along this important journey. We as a sector and as individual schools stand ready to be helpful. Thank you.

MS. McLARNON: Thank you. Our next speaker is Dr. Monica Herk from Education Research.

DR. HERK: Thank you. Is there a timer that shows --

MS. SMITH: I've got one right here.

DR. HERK: Okay. Great.

Thank you. My name is Monica Herk. I'm Vice President for Education Research at the Committee for Economic Development.

CED appreciates the opportunity to comment on regulations related to higher education. As a non-profit, non-partisan, business-led public policy organization that
provides reasoned solutions in the nation's interest, CED is a strong advocate for education and has long supported a balanced approach to government regulation.

In keeping with that balanced approach our comments focus on three themes. First, providing transparent and useful information to students and families to improve the functioning of higher education markets. Second, promoting innovation in higher education by ensuring a level playing field for all types of higher learning providers, and third, enhancing quality assurance by improving the accreditation system for higher education, including greater emphasis on student outcomes.

So to elaborate a little more on those three themes, first of all, providing transparent and useful information to students and families. Markets and consumer-driven choice can do much to ensure that consumers receive high-quality services of the type they desire at the best possible price, however, markets require informed
consumers to deliver these outcomes.

For these reasons we recommend that the Department reconsider and restructure the required consumer information disclosures for institutions of higher learning. Current consumer information disclosures include, but are not limited to, the Net Price Calculator, the Shopping Sheet, the College Scorecard and others. It's unclear how helpful this overwhelming abundance of information is to students looking to make informed college choices.

While much of the information that institutions must report is mandated by legislative law, the Department should revise how it requires institutions to report this information so that it is of the greatest benefit to students.

On the second theme, removing restrictions on the form and mode of learning in higher education, like all sectors of the economy the higher education market is evolving to meet the demands of the 21st century. How students learn,
the pace at which they learn and where they learn are changing, sometimes dramatically, yet many of your regulations still reflect traditional models of delivering higher education.

Our regulations need to reflect these changes and how students receive education to better serve their needs, particularly those who are pursuing their educations with the help of non-traditional institutions of higher learning.

So specifically we suggest that the Department should eliminate regulatory requirements that are intended to disadvantage particular sectors or learning models. They should eliminate course and program duration minimum requirements. They should not require time in seat, the credit hour, as a measure of academic sufficiency. They should base satisfactory academic progress on whether a student meets measurable learning objectives, not the credits earned or attempted. And they should encourage reciprocity agreements between states by clarifying regulatory guidance on the definition
of such agreements such as the State Authorization Reciprocity Agreements, or SARA.

On a related point the Department should eliminate distinctions based on institutional ownership and control. This will foster innovation and increase access to the widest possible variety of high-quality educational experiences. And the government should avoid discriminating in law or regulation based on type of institution, public, non-profit, for-profit, campus-based or online, credit-based or competency-based. We have some specific recommendations in that regard that appear in our written testimony.

And finally, to turn to our third main theme, we feel the Department should modify the accreditation process for institutions of higher learning. The Department should preserve the principle of non-governmental assurance of quality for higher education institutions that our current system of voluntary accreditation achieves, however a review of existing regulations governing
how this voluntary accreditation system is organized is long overdue.

Specifically, the Department should modify accreditor approval regulations to move from a geographically-based accreditation system to one based on type of school.

Is that it?

(No audible response.)

Great. The details appear in our written comments. Thank you.

MS. McLARNON: Thank you. Our next speaker is Jill Creighton, Association for Student Conduct.

MS. CREIGHTON: Good morning. My name is Jill Creighton and I serve as the President of the Association for Student Conduct Administration, a 501(c)(3) representing more than 3,000 higher education student conduct administrators at approximately 1,200 colleges and universities in all 50 states.

We are the highly-trained practitioners who work with student disciplinary
concerns at the postsecondary level including cases of alcohol and drug misuse, theft, physical assault, hazing, harassment, and sexual misconduct. Ninety-three percent of us have earned master's and/or terminal degrees. We've been trained on how to investigate, ask questions, apply laws, write thorough reports and innumerable other skills required to do our work. Many of our members also serve as deputy Title IX coordinators.

For 30 years ASCA has taught campus administrators to adjudicate student misconduct from a lens of fundamental fairness using a myriad of conflict resolution techniques including formal investigation, adjudication, restorative justice, conflict coaching, and mediation. Every day I'm responsible for talking with, listening to, and learning about our students' lives. I am charged with ensuring that all students are treated with respect and dignity and treated with the untenable rights and fundamental fairness.

Today I will speak to three concerns
raised by the student conduct administrator community. First, I want to speak to campus student conduct due process and deference to campus administrations. Federal courts have determined what encompasses adequate due process. Decisions including Dixon v. Alabama State Board of Education, Goss v. Lopez, and Esteban v. Central Missouri State University give clear guidance that we must provide adequate notice. This includes a description of the alleged behavior, the date and time of the incident, and some kind of hearing, which includes the opportunity to respond to and ask questions of the totality of the information provided against the complainant.

In 1968 the Western District of Missouri issued a general order that articulates why campus processes should not resemble courts of law and should have a separate and distinct function related to the maintenance of a safe campus environment. The courts have spelled out the requirements of campus due process which are widely used today. Any new rulemaking should
reflect what the courts have already decided and not attempt to make campus proceedings into a mock courtroom.

ASCA teaches that campus processes must be fundamentally fair, however, we do not believe it is the role of the government to micromanage them. The 2001 guidance states, one of the fundamental aims has been to emphasize that in addressing achievement levels of sexual harassment the good judgment and common sense of school administrators are important elements of a response that meets the requirements of Title IX. The '97 guidance, quote, offers school personnel flexibility in how to respond to sexual harassment.

I encourage this administration to continue to provide adequate flexibility to schools and professionals so that they may feasibly manage their administrative processes, including student discipline.

Second, I want to address the preponderance of the evidence standard as it applies to Title IX. Case law asserts the
The preponderance of the evidence standard is the most appropriate for student conduct proceedings. ASCA recommends it because it is not only the standard that reflects the integrity of equitable and student -- equitable student conduct processes for all parties. On a campus we are evaluating whether a student violated our institutional policies. We are not determining whether the student broke the law.

The most severe sanction that an institution can impose is expulsion from that school. While this is certainly a serious consequence, it is not comparable to the loss of life or liberty. That is what the criminal justice system protects.

Given the lower stakes, the preponderance standard is the most suitable and equitable standard by which to weigh a complaint. Most campuses already use and have been using preponderance for long since and long before the rescinded 2011 guidance. This is the same standard that civil litigations are decided.
In the Doe v. Brandeis University case, which was not a Title IX complaint, the court raised concerns that applying different standards of proof for different behaviors at the same institution is in and of itself discriminatory. Changing a campus's burden of proof through regulation, whether at the federal or state level, not only ignores institutional deference, it also de facto determines the standard for all campus violations lest we create a discriminatory environment.

Third, I ask for clarification on the use of mediation for sexual violence cases. On her September 28th, 2017 call with NACUA, Assistant Secretary Jackson stated that mediation is permitted for a sexual violence case whereas the 2001 guidance specifically prohibits this.

We request the Education Department to clarify this in their definition as they see it, as well as the role of other methods of informal resolution such as restorative justice, shuttle diplomacy, and facilitated dialogue.
In conclusion, student conduct administrators have thus far been excluded from conversations that directly impact our abilities to do our jobs well. I understand the Department of Education has been working with both NACUA and ACE, but while the student conduct professionals often work closely with campus legal counsel, we have the valuable perspective of interacting directly with all students, respondents, complainants, witnesses and others.

The Department of Education would be remiss to exclude our practical experience from any future negotiated rulemaking or other procedures. Therefore, we respectfully request to be included in future efforts to change federal rulemaking. We invite Secretary DeVos and Assistant Secretary Jackson to attend the ASCA annual conference in February 2018 as our guests. It is prudent and necessary for the Department of Education to garner a stronger sense of the student conduct profession, those who work in this field, and the level of training and expertise we bring to the table.
Thank you for your time.

MS. McLARNON: Thank you. Our next speaker is Eric Rosenberg of Rosenberg & Ball.

MR. ROSENBERG: Thank you. My name is Eric Rosenberg. I am an attorney with Rosenberg & Ball from Granville, Ohio, and I'm here to speak about OCR's 2011 Dear Colleague letter, the 2014 directives which were addressed in OCR's recent September DCL and question and answer. For the past seven years the attorneys in my firm have represented upwards of 100 college students in Title IX disciplinary proceedings at the university level and in 20 lawsuits filed in state and federal court.

I was initially somewhat reluctant to get into this area of work because I had spent five years as executive director for a Christian NGO working with sex-trafficked women and at-risk women and girls in Asia, Africa, as well as North America. To say otherwise, I have zero tolerance for sexual assault or exploitation of women, but I did work in countries where rule of law was often
lacking and the parties involved in the proceedings, whatever proceedings there were, felt that there was no fairness or justice meted out by the system. So when I heard that OCR was conducting hearings to address ineffective regulations that create inconsistencies or otherwise interfere with regulatory reforms, I asked to speak this morning.

The American College of Trial Attorneys, which is cited in the 2017 question and answer document from OCR -- it's a white paper on campus sexual assault investigations -- noted, quote, OCR has established investigative and disciplinary procedures that in application and in many cases fundamentally unfair to students accused of sexual misconduct.

I brought with me a flash drive this morning of nine of the lawsuits that I've filed across the country which address the breakdown in what we would consider traditional due process rights in disciplinary proceedings with regard to Title IX. The flash drive also contains a comment
from a parent, an anonymous parent of a student who went through a disciplinary proceeding.

Having spent years working with the victims of sexual assault and exploitation, I think it's important to note that the falsely accused suffer tremendously under the allegations made against them and are often not provided a voice. I've received numerous phone calls from suicidal students who have been accused of sexual misconduct and are asking for help in systems they do not understand. I'm personally aware of at least three suicides of falsely accused students.

So I believe that OCR's September DCL and question and answer is a remedy in part to the ineffective and inconsistent application triggered by OCR's 2011 and '14 directives. However, some colleges are expressing an intent to ignore or circumvent the OCR's September 2014 DCL and question and answer.

Therefore, I echo requests made here this morning that CFRs or rulemaking proceedings occur with regard to this very important issue that
would establish an opportunity for all parties to be heard on these issues and I would hope based on my experiences in this area that these regulations would take the form of the American College of Trial Attorneys white paper which recommends numerous commonly held due process rights that most of any of you would probably want if you were accused of sexual misconduct, like notice of what the charges are and the opportunity to cross examine your accuser in some capacity. Because when these fundamental concepts of American justice are denied to the accused, everyone leaves the system with a feeling of an inability to understand what happened to them.

So I would sincerely encourage that the types of due process rights addressed in the 2014 question and answer and the Academy be endorsed by the Department. Thank you.

MS. McLARNON: Thank you. Our next speaker is Patricia Hamill.

MS. HAMILL: Good morning. My name is Patricia Hamill. I'm a mother of two sons and a
college-aged daughter. I'm a feminist and I'm concerned that victims of sexual assault get the support they need on college campuses and that their claims are taken seriously, but I'm also concerned about fairness in the processes for all because there are no sides to this very important issue.

I come at these issues first and foremost as an attorney who believes that everyone benefits when participants in a process both are and feel they have been treated fairly. I have seen firsthand over the last five years in my representation of nearly 100 college students, mostly male accused students in college Title IX disciplinary proceedings, of the ruin that can be left behind because of deeply flawed systems. The policies and procedures used at most colleges and universities implemented in the wake of the 2011 Dear Colleague letter are seriously flawed and overwhelmingly skewed against accused students, the vast majority of whom happen to be male.

Because my time is limited I won't
discuss the specifics of a particular case, but I want to highlight what I have seen that is typical in many Title IX proceedings.

As the accused student you get notice of a complaint often with little to no detail. You may be moved out of your dorm or banished before any opportunity to be heard. The university may appoint a single investigator to serve as police, prosecutor, judge and jury regarding the complaint against you. The investigator never, not once tells you what you are accused of, or if you're told, only in very general terms.

You never get to face your accuser or hear what she or he has to say firsthand, or if you do, you are severely restricted in your ability to cross-examine or challenge your accuser's claims. You're found responsible and sanctioned with a lengthy suspension, often at least until your accuser has left campus or worse, you are expelled.

You try to transfer to another school, but now you've been branded a sexual predator and no other school will take a chance on you. If
you're lucky enough to be able to continue your education, you will still have to disclose to every law or grad school that you apply to that you have a disciplinary record and that you were found responsible for sexual misconduct.

This is the world we find ourselves in, whether it involves two men, a man and a woman, two women, a long-term relationship, a casual hookup, at a private school or a public university.

The question that arises in this world was aptly summed up by the federal judge in a case involving our client, an accused male student in a case against Brandeis University. The judge stated, quote, "The role of reducing sexual assault and providing appropriate discipline for offenders is certainly laudable. Whether the elimination of basic procedural protections and the substantially increased risk that innocent students will be punished is a fair price to achieve that goal is another question altogether."

The answer to the question is of course no, the elimination of basic procedural
protections is never acceptable.

So what can the Government do in light of this administration's goal of reducing Government overreach? And important first step was taken on September 22nd by the withdrawal of both the 2011 Dear Colleague letter and the 2014 questions and answers. I'm heartened that this administration also intends to move forward through the appropriate legislative process with notice and comment for all before promulgating any further rules or regulations.

The September 17th, 2017 interim guidance provides and should serve as a foundation for any further rulemaking. At a minimum there should be notice of the factual basis of a complaint, allowance of the school's process to follow behind any criminal proceedings, an investigation by a well-trained, competent, unbiased and impartial investigator, a right to meaningfully comment on any investigation report, a right to an informal resolution of a complaint, a right to meaningfully challenge or cross-examine
the complaining student. And I thank you for all of your efforts.

MS. McLARNON: Thank you. The next speaker is Cynthia Garrett, Families Advocating for Campus Equality.

MS. GARRETT: Thank you. I'm Co-President of Families Advocating for Campus Equality, a non-profit that supports and advocates for hundreds of students wrongfully sanctioned for alleged Title IX violations. I will be reading excerpts from the accounts of 12 FACE families which illustrate a system severely in need of reform.

"My underage son's professor purchased alcohol, introduced his accuser and cheered them on to have sex. He passed two polygraph tests. We have recordings of a university attorney telling him not to waste time trying to defend himself and another from a witness admitting she's been intimidated by the university not to testify. Suspended for three years."

"I saw my innocent son lose everything.

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His hopes, his dreams, any trust. We picked him up off the campus lawn, in a crumble and vomiting, after a meeting with the dean. I didn't sleep for months, worried he'd take his own life, pulling him from the depths of despair to see his future. There was no sex. He said no. The nightmare rocked our family, brought us to our knees. I pray for the day I can tell my story to senators in a hearing."

"She told her roommates the day after how cute he looked in boxer shorts and what a good kisser he was and tagged him in pictures on her social media account. Two days later she went to the student conduct office and claimed he'd sexually assaulted her. Expelled."

"While it was clear in the end she'd fabricated her claims, my son was still left suicidal with severe mental illness. Two extensive hospitalizations, three law semesters, $90,000 and the complete loss of his hopes and dreams."

"My son's doctor asked how often he
thinks of killing himself. He replied nearly every day. We left that appointment with yet another antidepressant hoping this one will keep him out of the dark hole he now lives in."

"I remember crying when I vacuumed the living room. Sobs, tears dripping on the carpet, trying to understand what was happening and mourning the loss of my son's dreams. I worried I would find him dead in the morning. What happened to him was a nightmare and it affected our entire family. I felt like I couldn't keep any of my children safe."

"My giant offensive lineman son sobbing in my arms saying, mom, I don't know why she's doing this to me. My heart grabbed, twisted and yanked out. I will never forget his voice, his face, his tears."

"What I remember most is his smile, the pride beaming on his face the first day at his dream college. He had worked so hard to get there. What comes from Title IX? Suicide watch, anxiety, depression, PTSD. Who can he trust? Trying to
understand how this could be allowed to happen. His life matters, or it should."

"My son helped a girl crying at a party. They kissed, clothes on, no sex. A week later he's accused of sexual misconduct, but the girl didn't want to participate. Doesn't matter. He's expelled on graduation day."

"The impact of this nightmare has changed our family and our son forever. His mental health issues have been diagnosed as a direct result of the trauma imposed on him by a flawed process and bullying by administrators and friends. Four-and-a-half years later he suffers from PTSD with debilitating anxiety that prevents him from work and study. No doctor can help. We are helpless."

"Something deep inside me told me to go home. I packed up and headed out. As I drove, I felt panic. I knew something was wrong. I tried to talk myself out of it. Once home I went to the garage, opened the door gazing up. I see fingers fumbling around a rope. What kind of rope? Where
did he get that? I glance down. Tennis shoes
teetering on a large bucket. My face meets his.
Tears streaming down his face. He is broken. I
start to shake. My voice cracks through my tears.
Honey, this isn't the way. Things will get better.
Sobs. I help him down. Take the rope from his
neck. Hold him tight to pull him from the depths.
I won't let go. I will fight for all of us."

"It's hard to believe our experience
with Title IX could be worse than his father's
year-long battle with brain cancer when our son was
only five years old, but is in fact far worse. So
I can tell former Vice President Biden that I
understand it is horrible to lose a beloved family
member to brain cancer at his prime as he did his
beloved son, but I can also say that Mr. Biden was
blessed to lose his son to brain cancer rather than
losing him 20 years later before his prime to a
corrupted Title IX process that caused our son to
lose his mind."

Thank you.

MS. McLARNON: Thank you. The next
speaker is Christopher Muha of KaiserDillon.

MR. MUHA: **Good morning.** My name is Chris Muha. I'm an attorney here in Washington, D.C. at KaiserDillon. My firm has represented students on both sides of the sexual misconduct process, but the great majority of the students who hire us; and they've come from almost 100 schools nationwide, are ones who have been accused of sexual misconduct, and I'm here today to talk about their experiences.

For decades the problem of sexual assault was swept under the rug, but the process of confronting that very real problem has led to new abuses. Those abuses are real, they're spreading and they threaten to rob campus proceedings of all legitimacy.

At school right here in D.C., for instance, you can be expelled for sexual assault without getting to ask your accuser or any other witness a single question or getting to see any of the evidence against you. The school's investigator prepares a secret report based on
secret evidence that goes to an administrator you
never get to meet with who decides your fate with
no right of appeal of any kind.

At a well-known school in the Midwest
we learned last year that the person deciding our
client's appeal had recently retweeted, quote, "To
survivors everywhere, we believe you." We asked
that he be recused, and that request was denied.
Imagine if that same person had instead retweeted,
"To accused students everywhere, we believe you."
Is there any doubt that he should have been and
would have been recused? Not surprisingly every
single student at that school who went through its
formal sexual misconduct process that year was
found responsible. Every single one.

Consider another client of ours who was
found responsible for a forcible sexual assault by
a different Midwestern school even after tape
recording his accuser admitting that he had not
assaulted her. That student was still found
responsible and suspended for two years.

Being falsely accused of sexual assault
takes a real visible toll on our clients, both male
and female. They lose sleep, they lose weight,
they lose friends, their grades suffer and the
majority of them end up in some form of counseling.
They're forced to live in a world where almost
everyone is taught to believe the accuser, and they
have to live that way for months.

I represent a client right now who was
charged with rape by his school, immediately put
on an interim suspension without any kind of
hearing, and finally after 17 months was given a
hearing and cleared of the rape charge. For 17
months he had to live as a presumed rapist with no
kind of hearing to clear his name.

In my experience Secretary DeVos is
absolutely right when she says that the current
system doesn't serve anyone very well. I
represent a young man who was twice expelled for
sexual assault by his school and who has twice now
had his expulsion overturned in court because his
school didn't give him a fair hearing.

That client is truly innocent. And you
don't have to take my word for it. The school adjudicator who presided over his second hearing actually found him not responsible after two days of deliberations. She reversed course only after three days of secret lobbying by the school's counsel.

Our client and his accuser now face the prospect of a third campus hearing. That means one of two things: Either an actual rape survivor will have to relive her nightmare a third time or, as I truly believe to be the case, an innocent student will have to relive his. Both possibilities are tragic and both would have been avoided if the school had given him a fair hearing from the start.

If the trend started by the 2011 Dear Colleague letter continues, stories like the ones by firm sees every day won't be outliers; they won't be unusual. Without real due process stories like these will be the stories through which our country understands the problem of campus sexual assault.

When people think of campus sexual assault, they'll think of Rolling Stone and UVA.
They'll think of schools with secret evidence. They'll think of students who wait 17 months for a hearing. They'll think of tape-recorded confessions that are ignored. They'll think of innocent kids who are expelled because of a school lawyer. And when that happens, it's only a matter of time before a campus assault is trivialized again, before survivors are marginalized, before men and women are denied their education.

Due process now does more than just protect the wrongly accused students of today. It also protects the survivors of tomorrow. Thank you.

MS. McLARNON: Thank you. The next speaker is Alison Stuart.

MS. STUART: My name is Alison Stuart. Thank you for the opportunity to be heard.

It was recently reported a young college couple was spotted roughhousing on campus. A third party mentioned it to a mandatory reporter, and so it began.

The school's Title IX coordinator
launched the investigation. The young lady was interviewed and refuted the allegations against the young man. She insisted the coordinator was wrong, that the young man had never abused her and explained she was not a battered woman as the coordinator argued she was. The young man was expelled despite the evidence.

How is it an individual disproves an allegation against another and is created a victim by her school? How is an innocent person expelled for no legitimate reason? Promises to protect both students from a hostile educational environment are broken and the single investigator/judge/juror feels justified in her decision. Title IX and the truth be damned.

Their experience is not the outlier as many might have once believe.

Five years ago in the seventh week of his freshman year, my college student accepted an invitation to engage in consensual sex with a classmate. It was brief. His partner found it lacking and ridiculed his sexual performance.
Days later she accused him of rape.

He was not arrested, charged or indicted by the grand jury. As every American citizen he was guaranteed his right to due process and his rights were upheld. The truth was quickly revealed and the case dismissed. The possibility of 42 years in the federal penitentiary was unthinkable, but nothing compared to the ordeal my student would face at his university.

Wielding the power of the 2011 Dear Colleague letter and threatened by loss of federal funding, his university leveled a full frontal attack against him. He was subjected to an investigation under the school's Title IX policy and was found not responsible 73 days later. He was dragged through a second investigation of the same incident by a separate school office under the student code of conduct policy and found not responsible for a second time over six months later. Double jeopardy.

Due to the sanctions levied by the OCR against the school for previous Title IX
violations, my student's case was subject to a third review. Triple jeopardy.

A 2012 no contact order imposed against my student restricted his movement and banned his right to speak which continues today despite his proven innocence. He was subjected to stalking and harassment by his accuser and a third party and the university refused to intervene. No one protected him.

After 12 months my student finally received the hearing he was ready, willing and prepared for 9 months earlier. His accuser was allowed to introduce unauthorized evidence. My student was stopped when putting forth authorized evidence. No one set it right.

Imagine losing your right to speak freely, to defend yourself against disproven allegations. Imagine constant harassment and bullying of the most vicious kind. Imagine living that horror. Imagine the trauma. Imagine the aftermath, losing your son or daughter to suicide. Mine was nearly taken by an intended drug overdose.
One thousand, eight hundred and twenty-five days ago today my family was changed forever. Medical diagnosis attributed the debilitating anxiety, depression and PTSD to his OCR school experience. At best he can be described as irreparably damaged by the hands of school administrators, the Department of Education and the OCR. Title IX was the weapon rather than the shield of protection. Adjudication by a biased system without the benefit of fairness, equal treatment, due process and the presumption of innocence nearly cost him his life and mind.

It's time to dig deep and work together for all students including the accused. Don't be that grossly misinformed Government official. Take every voice seriously. Don't allow misguided school administrators motivated by the bottom line to place their interests ahead of their students', and don't deprive every student their right to equal and just guidance under Title IX law. Thank you.

MS. McLARNON: Thank you. Our next
speaker is Jonathan Andrews.

MR. ANDREWS: Good morning. My name is Jonathan Andrews and I am both a sexual assault survivor and a wrongfully accused student. While my experience is holistically quite horrible, I want to speak to you specifically about my experience being accused in college.

In 2015 after being violently assaulted by a fraternity brother, a group of fraternity brothers in retaliation for my attempts to report and get justice, filed their own sexual assault complaint against me with the school. I was later found not responsible in February of 2016, and on the same day the same group of men filed a second complaint. I was summarily found responsible and expelled.

It is my firm belief that in the absence of 2011 guidance I would have been given the opportunity to fairly defend myself and clear my name. Most egregious among the requirements laid out in the 2011 guidance was the preponderance of the evidence standard. Proponents say that this
evens an already unbalanced playing field and tilts it in favor of the accused. However, on its face the preponderance of the evidence is an un-serious solution to a very serious problem. As a survivor I believe using such an unreliable standard of evidence trivializes assault and rape.

During my rape to add insult to injury I was constantly harassed by my accusers and my assailter. I received threatening letters in my campus mailbox, attacks on social media and anonymous text messages. One accuser wrote after learning I was found not responsible, "Don't worry. His celebration will be short." The implication was clear. No matter how many times I was found not responsible, they would continue to make increasingly fraudulent claims against me until I was expelled.

I begged my school to intervene and they refused, so I attempted to take my own life. This led to an extended stay in a mental health facility where I was treated for PTSD, anxiety, as well as few other mental health problems.
The common assertion is that schools like mine acted with disregard to the 2011 guidance. However, the reality is that colleges felt empowered by the 2011 guidance to abuse the rights of their students with relative impunity knowing that the OCR of the day would likely side with them as long as they found the student responsible. A culture was created on this that rendered every accused student guilty until proven innocent, a direct contradiction of the most important principles of American justice.

Another common assertion is that only 10 percent of accusations are false. The reality is that this erroneous claim is not just misleading, it is completely unsupported by serious evidence. No comprehensive study has ever been held to estimate the number of false accusations on college campuses, but it does allow certain special interest groups to create a dangerous narrative that false accusations are not a serious problem. Every innocent student punished for something they didn't do, no matter
how high or how low the percentage, is a real human life ruined and we must do better to ensure this doesn't happen again.

I applaud the Secretary's decision to rescind the 2011 guidance. It is a crucial first step to correcting the mistakes of the past, however, I believe it doesn't go far enough. Both parties must be given the right to have active counsel in their hearings. Survivors must have the opportunity to choose their method of healing by opening up the path of mediation. Accused students must have the right to face their accusers and cross-examine witnesses brought against them. The standard of evidence used in these cases must be raised to clear and convincing. And finally, dangerous investigative practices like the single investigator model must be discouraged. It is only with comprehensive reforms like these that we can begin to set things right. Thank you.

MS. McLARNON: Thank you. The next speaker is Mary Gilmore.

MS. GILMORE: Good morning. Thank you
for letting me speak. I am a FACE parent and a
lawyer from Vermont. My experiences with Title IX
have been profoundly disturbing. I attribute the
fact that I survived and my family survived and my
son survived to the support of others, including
FACE. It's still extremely, extremely painful for
me to discuss this because it's recent, 2016-2017,
at the top school in the country.

The story about Jim. Jim met Sally in
a bar with friends. They weren't freshmen. He
was a graduate student and she was a senior. They
talked for several hours before having sex in Jim's
room. Sally had only one drink. Jim tried to
pursue the relationship afterwards, but got the
cold shoulder.

Months later he got a visit from the
police and then an email from Title IX directing
him to move out of his dorm room of three years
immediately in the dead of night right before
finals when he was studying. Thereafter he had
limited access to classes, no ability to socialize,
no ability to recreate on campus.
Sally had a boyfriend. She knew she had been seen going home with Jim. The next day she texted her boyfriend. She questioned him about where he had been and then she claimed that she waited at the bar for him and when he didn't show up -- she was very, very, very drunk and was assaulted by someone; she didn't know who. The guy had not used a condom, she claimed. She told him not to tell anyone. He texted back that he was a mandatory reporter because he was an RA. I'll leave aside the system that creates that kind of hostility that doesn't protect the confidence of an alleged survivor.

As time went on Sally's story became increasingly embellished to her friends and her boyfriend. What started as an alcohol-infused hookup became a violent sexual assault. The evidence showed though that Sally was not intoxicated because there were joint degree students that were with them at the time. She ended up admitting it. She had chatted to friends by text four times, lengthy text messages that were
spelled correctly during the course of this violent sexual assault.

A roommate of Jim's who was 12 inches away, divided by a drywall, heard sounds in the room that were normal, and best of all there was an Uber driver who could testify that they had almost had consensual intercourse in the back seat, that Sally was not drunk, that she was completely sober and that she expressed a desire and a willingness to go home to bed with Jim.

When Jim gave this evidence to the investigator, he thought the case would be dropped, however, the investigative report was crushingly biased in favor of Sally. The report contained numerous factual errors, covered up things like the curated text messages Sally had with her boyfriend.

Most significantly the report contained two provable lies: The first was about the text messages between Sally and Jim. But worst of all the second one so as to support not including the Uber driver's statement, the investigator claimed that she could not contact to confirm this
with the Uber driver, had tried twice and the Uber
driver had no voicemail. Fortunately, Jim's
investigative team was able to verify that he had
never -- the Uber driver had not been contacted and
had voicemail.

The case notwithstanding went on for
another seven painful weeks while Jim and his team
fought the evidentiary issues and broadening the
investigation because the Title IX investigator
only wanted to talk about what happened in the
bedroom. His Title IX investigator who was caught
in an outright lie; the Provost Office knows it,
is still doing Title IX investigations at this top
school.

The harm caused to Jim by the false
claim: He lost 25 pounds, he cried frequently, his
career was delayed.

I tell you this story for one last
point: Jim survived this. Okay? He's damaged
physically, but he survived this because the
socioeconomics were in his favor. That is not
happening to most of these boys. There needs to
be reform and it needs to be now. Thank you.

MS. McLARNON: Thank you. The next speaker is Colonel Raymond Alves.

COL. ALVES: Good morning. I'm Colonel Ray Alves and I'm here as a father to provide a face to the severe repercussions the lack of due process and wrongful sexual assault accusations have on our young men.

My son is a victim. He's a victim of the overreach of Title IX, specifically the Dear Colleague letter which blatantly denied the accused their rights of due process and a Virginia law that brands students as sexual predators forever.

In April 2016 my son was accused of rape for a consensual sexual encounter he had with a female student over six months earlier. Criminally the police investigated and dismissed the case, but within three months my son was expelled from school and branded a rapist by Virginia Tech, not in any court of law.

Let me be clear, my son is innocent of
all accusations levied against him. He is a victim because today Title IX is used as a politically -- as a political tool to appear tough on sexual assault instead of ensuring students learn in a safe secure environment and guaranteeing that rights of both the accused and accusers are protected.

When his student conduct proceeding first started, I asked Virginia Tech's representative who owns the burden of proof in this process. To this day I have not received a straight answer. Additionally, schools do not have the capability or capacity to investigate or adjudicate these cases in the manner they deserve. In my son's case the Tech investigator had minimal formal training, did not deem it necessary to speak to some of the witnesses provided by my son, and she did not investigate why the accuser's story changed multiple times. It was through our own investigation, not Virginia Tech's, that we found text messages from the accusers to a friend the day after the alleged assault stating that my
son was real good and asking if it was too soon to ask him -- to add him as a friend on social media.

But it was more than just the investigator on my son's case. The vice dean in charge of Title IX affairs stated on social media, "We always put the victim in the driver's seat."

This statement alone should fill everyone in this room with concern. This is the leader of Title IX providing direction to his staff that accusers are victims the moment an accusation is made and to immediately assume anyone accused is guilty. How can this process be considered fair and impartial with this kind of top-down direction?

Also, the collegiate sexual assault process reeks of cronyism. At Virginia Tech members of the Title IX team who found my son guilty are friends socially and all advocate for the same victim-focused approach to sexual assault with no discussion whatsoever on the rights of the accused.

But most importantly they all work for a school that has a huge stake both financially and in the preservation of its reputation ensuring they look
tough on sexual assault.

The accuser in my son's case came right out and publicly demanded my son's expulsion, and if that did not happen the school would be sued.

While our colleges tout the high-minded need to educate our young people, they also religiously guard their reputations and bottom lines. Virginia Tech administrators had a clear stake in minimizing due process and finding my son guilty. The current political climate and Dear Colleague letter have essentially allowed schools to remove any semblance of due process in the adjudication of campus assaults to meet the goals of well-meaning but over-zealous victims' advocates.

There are those victims' advocates who say the collegiate process does not have lasting effects on the future of those who are wrongly accused. They take the attitude of you may have to break a few eggs to make an omelet.

In an attempt to get his life back on track my son was denied acceptance to multiple
schools because of a wrongful accusation and failed due process. One school admitted him after he provided a letter as part of his application, then subsequently rescinded his admission when they learned Virginia Tech violated state law and did not mark his transcript correctly. No repercussions to Virginia Tech for violating the law, but my son was devastated.

Everyone in this room understands the value of education and the lifelong detrimental effects of its denial. Our colleges and universities are ill-equipped to adjudicate life-altering cases of this magnitude and it's vital the adjudication of sexual assault is fair and unbiased for both the accused and accuser.

I will close with two things: First, I'm speaking for myself and not on behalf of the military, but many of the same sexual assault victims' advocates here today and in Congress feel the military should not adjudicate cases within the military because there is an inherent bias to take care of their own. Those same individuals
advocate for a biased process in colleges that does exactly what they're arguing against in the military.

But regardless of your thoughts on how the military should adjudicate sexual assault cases, I will tell you as a previous commander if there was an alleged sexual assault in my unit, I had at my disposal professionally trained law enforcement investigators and lawyers to ensure the rights of both the accused and the accuser. Not true on college campuses. I truly do not understand how victims' advocates support a Title IX process that does not utilize trained professionals and ignores due process.

Second, I hope and pray that those of you who have children never have to see them go through what my son has had to go through. You did not see the depression resulting from a wrongful accusation and expulsion from college. You were not there when I had to scramble his friends when he called crying from his car alone questioning why he was being treated like a convicted felon. At
21 he felt as if his life would be forever defined
this event and this false accusation would
continually overshadow any accomplishments. Not
what I want for my son.

I also have two daughters. I want them
to be able to get an education in a safe environment
free from sexual assault, but completely tilting
the scales of justice through incorrect
application of Title IX and the Dear Colleague
letter harms all involved, both the accused and
accusers. Thank you very much for your time.

MS. McLARNON: Thank you. We're going
to take a 10-minute break and come back 10:40.

(Whereupon, the above-entitled matter
went off the record at 10:29 a.m. and resumed at
10:41 a.m.)

MS. SMITH: Ladies and gentlemen,
we're going to reconvene, please. If you want to
take your seats?

DR. McARDLE: Next we have Alison Kiss
from the Clery Center.

MS. KISS: Good morning, honored
members of the U.S. Department of Education staff. I want to thank you for the opportunity to provide testimony to you all at this hearing.

I'm proud to serve as the Executive Director of Clery Center, a national non-profit organization based in Pennsylvania.

Connie and Howard Clery founded the organization following the rape and murder of their daughter Jeanne by another student whom she did not know. We have served at the heart of campus safety for the last three decades through advocacy, policy and training for colleges, university students and families.

On behalf of the board and the team I appreciate the opportunity to join you and discuss the requirements specifically of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act.

My remarks at this hearing are informed by a 15-year career in the criminal justice and campus safety industry.

Before I talk I just wanted to deviate
a little bit about the previous testimony. There appears to be an intense misunderstanding of some basic campus fundamental fairness. The narrative today focused a lot on respondents or accused students never having responsibility for their actions. It painted a dangerous picture for me in terms of false accusations and I do want to point to my colleague who testified earlier, Jill Creighton from Student Conduct Association, and encourage the Department to look to them to understand more about the campus process and how it is different from the criminal justice system.

The Jeanne Clery Act was first passed in 1990 and was amended six times, most recently via the VAWA amendments. It is best known for the disclosure of crime stats as a means of consumer protection, but further is an essential part of the dynamic landscape of college campus safety. This includes policy disclosures through the annual security report.

When a crime happens on a college campus, students, parents or staff will often go
to the annual security report to understand options, process, reporting. If they suspect that their institution violated the law, an individual may file a Clery Act complaint, and this has resulted in major changes in the higher education landscape.

Notably, as soon as a complaint was filed in 2011 against Pennsylvania State University, colleges and universities proactively across the country started to revisit their policies for minors on campus. Further, they looked at training and identifying campus security authorities, those responsible for addressing crimes when they're reported to them and passing information along to campus law enforcement. So nothing goes unreported.

In 2017 Occidental College in California was found in violation of the Clery Act noting failure to meet obligations to compile and disclose statistics, issue timely warnings, maintain crime logs and have adequate policies and procedures in place.
As a result of the initial complaint in 2013 Occidental took steps to improve compliance and safety within the community. This includes hiring trained staff, providing additional training, professionalism of policies and procedures, improving transparency for safety concerns. These findings only represent a small sample of program reviews available to the public that serve to assist colleges and universities to build comprehensive compliance programs.

One of the strengths of the Clery Act is its evolution over time. Through the amendments to the law we've seen the additions of rights for victims of sexual assault, emergency notification, the addition of dating violence, domestic violence and stalking, and the requirement for an equitable student conduct process less by trained administrators. These changes have strengthened safety efforts and professionalized staff in campus communities.

While regulation reform is geared at reducing regulatory burden, it is also prudent to
consider changes that may strengthen the law, in this case a law geared towards transparency and awareness of safety issues. To this end there are some areas of Clery that have not played out as intended, and I wish to draw the attention to these two areas.

One, study abroad or foreign non-campus property. Current guidance under the Clery Act requires colleges and universities to collect and report statistics that are reported at non-campus properties in foreign locations. This task is often time consuming yet does not inform safety. A more effective replacement could be requiring institutions to simply link and publish State Department advisories specific to foreign locations.

Non-campus property or short stays. Current guidance also requires reporting of crimes in short stay locations such as hotels or institution-sponsored trips. We respectfully ask for clearer guidance for institutions to consider in these trips. These areas could be refined and
could strengthen campus safety and make the regulations less burdensome for institutions.

Lastly, I want to note that Clery has evolved based on the needs of the student community. We've seen a lot in the news lately about hazing, and there's no universal definition for hazing on colleges and university campuses, making it challenging for colleges and universities to enforce.

Recently Congressman Meehan and Congresswoman Fudge introduced the bipartisan REACH Act in the house which would amend Clery to include the disclosure of hazing policy and statistics and to mandate educational programs on hazing to the student population.

MS. SMITH: Time.

MS. KISS: Thank you.

DR. McARDLE: Our next speaker is Tom Rossley.

MR. ROSSLEY: Good morning. I would like to thank you for the platform to speak today and I would like to thank you for listening.
My name is Tom Rossley. I'm a dad from Chicago, Illinois. My wife and I are celebrating our 31st wedding anniversary today long distance, and I'm here to speak on Title IX.

We have three adopted children from Central and South America. My two sons and I each attended Drake University in Des Moines, Iowa.

Our Title IX nightmare began in October '15 when my oldest son was called into the dean's office for a possible violation of Drake University's sexual assault policy. Immediately my son disclosed his ADHD, anxiety, and language-based learning disabilities. He was accommodated for his disabilities in the classroom. They were never accommodated in the Title IX process.

When told why he was being questioned, he proclaimed that's what she did to me. An investigation into his claim was never opened because the university wanted to consider it retaliation. I cannot find anywhere, not in Title IX, not in the Clery Act, and not in Drake policy,
that a university can refuse to investigate a claim of sexual assault if they consider it retaliatory.

The unbiased investigator was a self-proclaimed victims' rights advocate and activist. She was the Title IX coordinator at Iowa State University and she had been a sex crimes prosecutor in a neighboring county for over 10 years. She had never investigated a case at Drake before.

When my son told her that he had no recollection of having sex with this woman as was being claimed, the investigator wrote across her notes the word "lie." She neglected to interview over nine witnesses, chose to eliminate the testimony of my son's roommate who was in the room all night, and there was significant testimony in her notes that never made it to her findings, much of which could have helped my son's case.

Interestingly, the dean of students, who had been in his role for just one month at the accusation had editorial rights to the investigator's report, declared my son's guilt
upon reading the report and publicly stated he would be seeking his expulsion in the upcoming hearing, the very hearing which was supposed to establish whether a violation occurred.

Shockingly, the acting dean decided to insert himself into the hearing as a second prosecutorial complainant with the university's attorney by his side. The female was the first complainant with her attorney by her side. The acting dean also retained the right to appeal any decision of the hearing officer. All appeals including his own were required to be made to the acting dean himself.

My son's attorney, realizing that this didn't appear to comply with Title IX, asked the hearing officer for comparable speaking time that afforded the complainants. It was going to be granted until the Title IX coordinator who had been in her role for just one week when the accusation was made wrote an affidavit to the hearing officer that included this line: Quote, "The only mechanism for the university to comply with Title IX is to waive its allotted speaking time."
At the hearing they did not give up their speaking time and the complainant's side had twice the advantage as my son and his attorney. And because attorneys cannot speak in these hearings, my son with his ADHD, anxiety and language-based learning disabilities was required to serve as his own attorney without accommodations for nine hours. In fact, on several occasions when my son's attorney confronted Drake's attorney with his concerns, he replied, "The University isn't worried about the Rossley family suing them. They're worried about the female suing them." I was considered Mr. Drake for a while.

In the hearing that expelled my son one month before his graduation the female actually admitted to sexually assaulting him without his consent. She defined consent as to when she initiates sex, and she went on to proclaim that she was just giving him what she thought he wanted. And it's all on a tape.

My son's claim had always been that he had been falling in and out of consciousness and
could not maintain an erection. Excuse me. The acting dean thought it appropriate to ask my son about her assault on him by saying and you didn't say no? He was found responsible and was expelled. Her admission was ignored.

The university president had been in his role only since July. He knew from the beginning that my son had claimed he was sexually assaulted. He did nothing to fix the problem and then signed off on the expulsion because he was confident the process was fair. The chair of the board of trustees also knew of the claim and did nothing. He was expelled in the spring of '16. She graduated in the spring of '17.

I had been a trustee at Drake for the prior 23 years, the longest serving trustee at the time. In April of '16 I expressed my concerns about possible violations of both Title IX and the ADA in a 12 page letter to my fellow trustees. Three months later I was removed by a vote of the trustees.

We did not experience a Title IX
problem. We did not experience a Dear Colleague letter problem. We did not experience a problem with Drake's own policies. We experienced a problem with the university administrators and the process.

I was on the Student Life Committee in 2011 and '12 when we wrote the university policy. We never looked at the process. In fact, in my 23 years as a trustee we were never trained in Title IX.

My son has sued the -- his -- our alma mater in federal court and six of his seven claims have already survived dismissal and are moving to discovery. I have filed a federal lawsuit as well and the university is challenging only two of my claims. Whatever you do, please consider pushing for legislation that mandates that even private schools that take federal funds must guarantee constitutionally-protected due process rights to all students in all of their disability processes. Thank you.

DR. McARDLE: Thank you. Next we have
Neena Chaudhry.

MS. CHAUDHRY: Good morning. My name is Neena Chaudhry and I'm Director of Education and senior counsel at the National Women's Law Center here in D.C.

The center is a non-profit organization that has worked since 1972, the same year that Title IX was enacted, to combat sex discrimination and expand opportunities for women and girls in every facet of their lives, including education.

I'd like to focus my comments today on the September 2017 Q&A on campus sexual misconduct. The National Women's Law Center urges the Department of Education to withdraw this misguided interim guidance because it will hurt survivors of sexual assault, create uncertainty and confusion for schools and make campuses less safe.

This guidance was issued pursuant to an unfair and uninformed process before an open comment period on regulations and guidance was even closed and without considering the hundreds of thousands of parents, students, alumni and school
officials who strongly urged the Department not to change the governing policies. It is unnecessary and will impose great costs both on survivors and on schools who rely on it.

The 2017 interim guidance was issued by the Department at the same time that it rescinded a 2011 guidance that schools had asked for to help them understand their legal obligations to address sexual violence. One in five young women in schools across the country is sexually assaulted, and these numbers are even higher for young women of color, those with disabilities and LGBTQ students.

One of the most important things that the Department of Education did in the 2011 guidance was remind schools that they have the serious obligation to address sexual violence. That guidance also detailed a framework for schools to ensure a fair process for both sides in any investigation. For example, the 2011 guidance reminded schools that only allowing one party to appeal was blatantly unfair, that allowing a
survivor to be directly cross examined by her assailant was not okay because of the trauma that it could inflict, and that forcing a survivor to sit down and try to work it out through mediation with her assailant was not appropriate.

Another thing the 2011 guidance did was tell schools to use the preponderance of evidence standard when deciding whether a student was responsible for sexual assault. This standard, which was already the one used by the vast majority of schools, essentially asks whether it is more likely than not that a student committed sexual assault. It's the standard used in civil and civil rights cases and it's the right one because it values both students' access to education equally and it assumes that both students are equally credible.

The Department says that it issued the interim guidance because the 2011 guidance was unfair to accused students, but where schools were getting it wrong for either side, they were violating the 2011 guidance. What schools need is
more help from the Department to get it right, not a new system that grants only those accused of sexual assault special rights.

By allowing schools to grant appeals for accused students only, permitting direct questioning of survivors by their assailants and letting schools use mediation to address sexual assault, among other damaging provisions, the Department's interim guidance will have a devastating impact on student survivors. It will take us back to a time when sexual violence -- when the sexual violence that plagues our nation's school was simply swept under the rug.

Sexual assault is vastly under-reported and understandably so. Survivors are often met with systems that are fundamentally unfair, that dismiss their concerns, are re-traumatizing and make it nearly impossible to demonstrate to anyone the harm they have experienced. The interim guidance will only exacerbate these problems and make campuses less safe.

This new guidance also creates
uncertainty for schools who have worked hard to make progress and ensure fair process that value both students’ educations equally. Many schools with help from the Office for Civil Rights have invested time and energy in revising their policies and procedures and ensuring that everyone in the school community understands their obligations to promptly and fairly investigate sexual violence.

The interim guidance contains a number of statements that are wrong and contrary to established law. It also invites schools to tilt the previously balanced scales of justice towards accused students and makes it harder for survivors to get relief. Schools that use the interim guidance as their guide will do so at their own peril as they will face increased litigation from student survivors and advocates.

Not surprisingly, many schools have already publicly stated that they are not changing course and we hope that more will continue to stand up and do right their students. We ask the Department to withdraw the 2017 interim guidance
and reinstate the 2011 guidance and accompanying 2014 Q&A document and we urge Secretary DeVos and Acting Assistant Secretary Candice Jackson to conduct a listening tour with survivors at all levels of education across the country and to focus on enforcing Title IX instead of weakening it. After all, the mission of the Office for Civil Rights is to ensure equal access to education through vigorous enforcement of civil rights in our nation's schools. Thank you.

DR. McARDLE: Thank you. Our next speaker is Christopher Chapman.

MR. CHAPMAN: Good morning. My name is Christopher Chapman and I serve as President and Chief Executive Officer of AccessLex institute, the largest philanthropic organization dedicated to improving access, affordability and value with respect to legal education in this country.

Since 1983 AccessLex institute has been committed to the pursuit of these tenets on behalf of the aspiring professionals who attend our nearly 200 ABA-approved non-profit and state-assisted law
schools. Our Center for Education and Financial Capability based in West Chester, Pennsylvania offers best in class financial education programming and resources to students all free of charge. And our Center for Legal Education Excellence based in here in Washington, D.C. conducts research and advocates for policies that make legal education work better for students and society alike. And this mission is what brings me here today, and I thank you for this opportunity to address the Department on a matter we find especially important.

As I noted in my September 11th letter to the Department, AccessLex institute believes the federal regulations which limit institutions of higher education from expanding required counseling for federal student loan borrowers beyond the narrowly-scoped entrance and exit counseling requirements contained in the Higher Education Act is detrimental on a broad scale and should be modified to allow schools to require additional financial counseling for students as a
condition for receiving federal loan funds.

The rising cost of higher education and increased levels of student borrowing create an imperative that students have the necessary information to make the best financial decisions, and for many students the minimum counseling requirements are simply not enough. Graduate and professional students who as a group hold the largest loan balances upon graduation especially need more comprehensive, frequent and customized counseling.

On a big-picture level 40 percent of the $1 trillion of outstanding student loan debt in this country is attributable to the financing of graduate and professional degrees and the average balances of those borrowers are substantially higher than those of undergraduates. And while these debt levels alone could warrant additional counseling, students themselves are asking for more and better financial education.

In a 2017 AccessLex survey of nearly 5,000 law school students 98 percent of respondents
indicated an interest in having a personal financial program offered to them. Eighty-five self-reported a grade of B-minus or lower as it related to their own personal finance knowledge and over seventy-five percent worried about their student loan debt.

So we know students want and recognize the need for additional loan counseling, but the regulation as currently interpreted creates a barrier for schools to effectively provide it to those who need it the most. Removing this barrier would allow schools to offer sufficient and timely information to borrowers and this would not have to result in an increased burden to schools or students. Options are available to schools that include online counseling and partnership -- or partnerships with outside organizations.

For example, my organization AccessLex provides free financial education to borrowers on topics such as financing their education, loan repayment and budgeting. Most recently we launched MAX By AccessLex, a free personal finance
program exclusively for law students that complements the work schools are already doing to educate students on borrowing and loan repayment.

As of today 120 of the 199 member law schools adopted this program in its first year, clearly showing that schools are hungry for the opportunity and want and need to recognize the need for financial education for their students. And what's more, it's also a taxpayer issue.

Among other required elements currently required under law, loan counseling must emphasize to the borrower the seriousness and importance of the repayment obligation that the student borrower is assuming. On this point a recent Brookings institution study found that about half of all first-year college students underestimate how much student debt they even have and 14 percent of those who have student loans don't think they have any student debt at all.

Schools need the flexibility to require students to participate in loan counseling as a way to show students their cumulative debt amount,
explain the revised estimated monthly payments and really give them an indication of what that next dollar borrowed means. This is the most obvious and direct way to emphasize and remind student borrowers of the seriousness and importance of repayment, and it is serious and important to both the borrowers for whom loan repayment affects their future financial health and security and the nation, because unpaid student debt ultimately becomes taxpayer debt.

While we are hopeful that Congress will consider the importance of financially literate federal loan borrowers during the reauthorization of the Higher Education Act and adopt changes to realign loan counseling requirements with the economic realities of today and tomorrow, the substance and timing of any such changes are unknown at this point, and in any case would occur well into the future.

However, the Department of Education has the ability to act quickly to revoke this prohibition and in turn provide a simple
improvement that will benefit schools, students and the American taxpayer alike. We strongly urge it to do so.

Thank you again for your time today and thank you for considering our recommendation.

DR. McARDLE: Thank you. Our next speaker will be Karen McCarthy from the National Association of Student Financial Aid Administrators.

MS. McCARTHY: Good morning. I'm representing the National Association of Student Financial Aid Administrators, and we thank you for the opportunity to identify regulations that need revision.

Regulations that carry more burden than benefit or that control institutional processes too tightly, increase costs and reduce student services, rules that create barriers to aid application, enrollment and completion or that inhibit innovation by institutions are as problematic as those that inhibit job creation.

Given Ed's intention to revisit gainful
employment and borrower defense rules, we will not
discuss those here. I will highlight areas that
most raised concerns about burden. Our written
response lists others and references reports that
include recommendations from NASFAA member
institutions to reduce burden, eliminate barriers
and encourage student success.

Return of Title IV funds. R2T4
regulations are highly complex and detailed beyond
what is required by law. For example, the
definitions of "withdrawal" and "required to take
attendance," the treatment of modules and some
deadlines are purely regulatory. Recent input
from our membership yielded more than twice as many
complaints about R2T4 as any other topic. One
member stated no one with modules gets this thing
right.

In fact, R2T4 consistently appears as
a top audit and program review finding. Schools
do not aspire to be non-compliant. Any area of
regulation that consistently trips up schools
should be reviewed. Ed should conduct a
negotiated rulemaking dedicated to R2T4 aimed at minimizing specificity and complexity and maximizing school options.

Subsidize usage limits, known as SULA. The number of comments on SULA was second only to R2T4. Although the limitation on loan subsidies is statutory, the implementing regulations are interpreted and difficult to explain to students. SULA-related reporting requirements are imposed on programs not even eligible for subsidized loans. We recommend a limited negotiated rulemaking session just on SULA.

Disclosures. Mandated consumer disclosures are generally unread. The sheer mass of them is counterproductive. Not only is content an issue, but timing, appropriate recipients, delivery method, format and presentation all should be reviewed.

Verification. Well-designed verification is essential to program integrity; however, its implementation is usually on the list of burdensome regulations that affect student
access to higher education. Regulatory revisions effective in 2012-'13 were based on successes from the Quality Assurance Program, however, a transitional approach using tracking groups rather than truly targeted selection of data elements for each applicant has persisted for seven years now. We would like to see more advances in targeted data selection, more flexibility for institutions to apply quality assurance principles and consultation with institutions before adding new verifiable data elements.

Our members are also concerned that they have become responsible for knowing and enforcing certain IRS rules such as filing status requirements. Financial aid administrators should be allowed to rely on IRS records and data as received.

Non-traditional program formats and distance education. Perhaps the greatest areas for innovation in higher education are distance education and non-traditional program formats which can significantly reduce costs. Ed should
work with stakeholders in these areas to modify regulations designed for traditional programs at brick and mortar schools that inhibit innovation and success in non-traditional and distance formats.

Generally speaking, regulations should provide clear goals and guidelines with details left up to schools as much as possible. We encourage Ed to reformulate regulations that currently have a high degree of specificity and few options into more flexible options for attaining underlying objectives.

Negotiated rulemaking between the higher education community and Ed's most experienced career professionals is still the best approach to formulating regulation. It can be successful only if the number of issues included is reasonable.

More focused rulemaking on one topic such as R2T4 would result in better drawn rules. If multiple topics are included, Ed should consider modifying pass protocols to accept consensus on
individual issues as binding rather than requiring consensus on a package of unrelated issues.

NASFAA looks forward to working with Ed to implement regulatory reform. And thank you for your time.

DR. McARDLE: Thank you. Our next speaker is Julie Peller from Higher Learning Advocates.

MS. PELLER: Thank you for the opportunity to testify. My name is Julie Peller and I am the Executive Director of Higher Learning Advocates.

We work to advance policy changes to increase postsecondary attainment, specifically policies that support a system of higher learning that is student-centered, equitable, outcomes-based and focused on educational quality. As such, Higher Learning Advocates focuses on three key issues: high-quality outcomes, today's students and the changing landscape of higher education.

We are a proponent of smart efficient
regulations that fit together to improve postsecondary outcomes for all of today's students including completion, employment, equity and value.

During this regulatory review we ask that the Department of Education consider not only specific requirements but how the array of regulations and requirements can work together to advance outcomes for the students and institutions of today.

Today's students are more diverse in age, race and income. Many live off campus, attend college part time, are working while in school and are parents. Regulations should be designed to recognize this reality, respond to the needs of today's students and support institutions in modifying and evolving program offerings and student supports.

The Department should use this opportunity to consider how different requirements and metrics work with one another. For example, the various federal reporting mechanisms for
postsecondary education use different time frames for completion inconsistently and interchangeably. Common metrics and definitions implemented across regulations would ease the process of reporting data to the Federal Government, promote greater transparency and enhance data quality.

We also believe this regulatory review is the appropriate time to consider ways to reduce the complexity and confusion created by some regulations. Streamlining regulations such as simplifying the Free Application for Federal Student Aid and timely loan forgiveness during borrower defense to repayment claims could reduce some challenges that may be facing today's students by increasing clarity and communication.

While we believe a holistic review could improve outcomes and oversight, Higher Learning Advocates also urges the Department of Education to consider some specific regulations in your conversations.

We support the original intent of the
gainful employment regulations and believe the
data required under these rules are an improvement
upon existing systems that provide useful
information for today's students, institutions and
policy makers. Specifically the earnings data
collected and reported under gainful employment
are a vast improvement over currently available
earnings data and provide a useful example of how
institutions of higher education can accurately
communicate graduates' earnings while providing
data security to inform current and prospective
students and their families.

We also urge the Department to examine
current accreditation regulations and the process
for recognizing accreditors. Higher Learning
Advocates supports aligning the federal role in
accreditation with quality rather than compliance
and clearly defining a process for differentiated
accreditation. This approach would ensure that
accreditors are appropriately targeting time and
resources in their reviews.

As higher education requirements are
outlined in statute, we hope the Department will work with Congress to focus requirements on student outcomes, specifically requirements that govern innovative delivery models such as competency-based education, industry certifications and digital credentials to enable such models to become more widespread while maintaining the quality protections for students and taxpayers.

To conclude, as the Department continues its review of regulations we ask you to consider how regulations and any proposed changes will work together with the goals of advancing student outcomes, enabling high-quality higher learning and supporting today's students. Thank you for your time.

DR. McARDLE: Thank you. Our next speaker is David Bousquet.

MR. BOUSQUET: Good morning. Good morning, members of the U.S. Department of Education staff. My name is David Bousquet. I am the Chief of Police at Becker College in Worcester,
Massachusetts and I am proud to also serve as the current president of the International Association of Campus Law Enforcement Administrators, or IACLEA.

IACLEA is the leading authority for campus public safety in the United States and beyond. We have more than 3,400 members at 1,200 colleges and universities in the United States and 15 other countries. Next year we celebrate our 60th anniversary.

On behalf of our membership I am grateful for the opportunity to provide the perspective of campus law enforcement and public safety executives to assist your consideration of the regulations and sub-regulatory guidance associated with the Federal Clery Act. Please know that IACLEA supports the intent of the Clery Act.

We believe that overall it has helped enhance the safety of our campus communities, our members' attempt to faithfully carry out the provisions of the Clery Act on a daily basis,
however, some of the statutes implementing regulations and sub-regulatory guidance are unclear and add to the compliance challenges of colleges and universities without a clear resultant increase in student, faculty and staff safety.

This morning I briefly draw your attention to three areas of concern for campus police chiefs and public safety directors.

Non-campus property, foreign countries. In sub-regulatory guidance the Department of Education has directed colleges and universities to collect and report crime statistics for facilities used for overseas study. Given the number of countries visited for study abroad by American students, this task is extremely complicated and time-consuming. More often than not, useful information is not received from foreign countries hosting our students on a temporary basis.

We encourage all of our member institutions to take proactive steps to assess the
safety of facilities and the surrounding area where their students will be studying in foreign countries. However, because this reporting requirement does not enhance safety, we respectfully request that it be removed.

Non-campus property, short stays. In sub-regulatory guidance the Department of Education has directed colleges and universities to collect and report crime statistics for facilities not directly associated with the campus. In this case the reporting requirement goes to facilities such as hotels where university sports teams may be lodged. Again, we encourage all of our member institutions to assess the safety of facilities that will be used within the United States for field trips or to house our sports teams. However, because this requirement does not enhance the safety of the core campus community, we respectfully request that it be removed.

Uniform definition of Clery crimes. Some of the Clery Act implementing regulations require the reporting of crimes that are not crimes
in every state. In some instances the Clery Act definitions conflict with state definitions. In yet others the crime is not clearly defined by Clery in its regulations or in state late.

IACLEA recommends that Clery Act crimes be defined consistent with the FBI Uniform Crime Reporting System, and then once the FBI National Incident-Based Reporting System is fully functional to align with that system.

Again thank you Secretary DeVos and the staff of the Department of Education for providing this opportunity for campus police chiefs and others to share their experience and insights with the Task Force on Regulatory Reform. I hope this information we have shared is useful to your endeavor. Thank you.

DR. McARDLE: Thank you very much. The next speaker is Reid Setzer from the Young Invincibles.

MR. SETZER: Good morning. My name is Reid Setzer, and I am the Government Affairs Director of Young Invincibles, a national
nonpartisan organization dedicated to expanding economic opportunity for young people, and amplifying their voices in the political process. We are committed to preserving and expanding affordable access to quality higher education for our generation.

Because of this, YI urges the Department to step back from weakening or eliminating key consumer protections, and we reiterate our support for the gainful employment, borrower defense, and incentive compensation rules.

Undermining these regulations benefits the worst-performing and most predatory schools at the expense of students and taxpayers.

Instead, the Department should focus on helping students and families by simplifying and improving the FAFSA verification process, and reinstituting the memoranda of understanding with the Consumer Financial Protection Bureau to monitor and improve borrower experiences with student loan servicers.
As indicated in previous comments and testimony, before issuing new career education regulations, the Department of Education amassed a strong pool of evidence indicating that many for-profit colleges were dubiously profiting off federal student aid without providing quality education that advanced graduates' career opportunities.

For example, the Senate Health Committee found that for-profit education companies enrolled roughly 10 percent of students nationwide, but despite this, they receive 25 percent of Pell Grants and Stafford Loan dollars, and account for 47 percent of all federal student loan defaults.

Despite that grim picture, over the past few years we have seen movement within the career education sector to improve the quality of the for-profit college market, spurred in part by the Department taking these problems seriously, and promulgating the gainful-employment rule.

The rule has prompted improvements.
Out of the over 500 career educations programs flagged under the first year of applying the rule, over 300 have already been shut down by the institution offering them. Relatedly, the rule has not had the catastrophic impact predicted by the for-profit industry. Approximately 75 percent of all programs passed the debt-earning ratios prescribed by the rule, and around 90 percent of colleges with career educations had no failing programs at all.

Equally key is the borrower defense rule. The borrower defense rule creates clearer processes, and strengthens protections for students who have been misled, and are looking to get back on track towards their goal of affording higher education.

Instead of eroding and freezing borrower defense, the Department should be putting its weight and energy behind clearing the backlog of individual discharge applications, and issuing group discharges wherever justified. Over 50 organizations working on behalf of students,
consumers, veterans, active service members, faculty and staff, civil rights, and college access support the rules, as well as 20 state Attorneys General, and dozens of members of Congress.

Furthermore, 78 percent of Americans say they support loan relief for borrowers whose schools provided deceptive information about their programs or outcomes. These rules should be given the chance to be fully implemented.

Finally, part of the program participation agreement rule, known, also known as incentive compensation, is an important protection that removes financial incentives for predatory recruiting by school employees. The rule prevents colleges from paying bonuses or other financial rewards to recruiters, based on how many students they enroll.

In the years when this rules was relaxed, one college ran, quote, boiler rooms, to maximize their chances of enrolling students regardless of their chances of succeeding or their ability to pay.
Misrepresentations about job placement rates, ability to transfer credits, and other deceptions are unacceptable and extremely damaging to a student's ability to select the best school for them, and ultimately achieve a college credential.

It's crucial to leave the current incentive compensation policy in place to help prevent this kind of unscrupulous behavior.

Instead of rolling back student and taxpayer protections, the Department should turn its attention to two areas where its action could improve the lives of students and families.

The current FAFSA verification process is unnecessarily burdensome to students and families applying for aid. Pell eligible students made up a staggering 98 percent of all students flagged for verification in 2014 and 2015. The Department should review the entire verification process and adjust the filters used to prevent the disproportionate targeting of Pell eligible students and families.
This could be accomplished by allowing those that did not have to file a tax return to not have to prove that they did not do so, as well as letting students and families use copies of their tax returns, instead of having to formally acquire an official tax transcript. These changes can dramatically improve the process that students rely upon to receive essential financial aid.

Additionally, the Department of Education decided recently to terminate two memoranda of understanding between itself and the CFPB. These agreements allowed for both agencies to collaborate on a host of issues, including the resolution of complaints from student borrowers in relation to their federal or private student loans, and the joint oversight of student loan services.

The Department's decision to terminate those MOU is concerning to advocates and student borrowers. In fact, the CFPB had resolved nearly $20,000 student loan complaints as of the beginning of August, in keeping with language in Dodd-Frank that required the Department and the CFPB to enter
into an MOU to, quote, ensure coordination in providing assistance to and serve borrowers seeking to resolve complaints related to their private education or federal student loans.

As such, the Department should meet with the CFPB to determine the parameters for new memoranda as soon as possible to ensure borrower complaints are serviced, and proper oversight of student loan servicers is effectuated.

The Department of Education must put protecting students and families first as it moves forward with its work. Young Invincibles looks forward to continuing to share the youth perspective on issues of importance in higher education in the months and years to come. Thank you.

DR. MCARDLE: Thank you. Our next speaker is Katheleen Sullivan.

MS. SULLIVAN: Thank you very much. I would like to thank the panel for listening, and I would like to thank Secretary DeVos and the Department of Education for having this hearing
I am here from New York City. I am an attorney. I am here to address the issue of the sad denial of due process that is happening on college campuses right now.

I really appreciate that the Department of Education is willing to review this, because I feel that there is a terrible trend towards an absolute denial of due process happening.

I was a prosecutor in the New York County District Attorney's office for many years. And in New York, we have a culture of respect for defendants and those who are accused. I was inculcated from day one to respect the due process rights of those who were being prosecuted, regardless of how heinous that criminal was.

It is something that makes the process of jurisprudence in this country sacred. It is something that we should all value.

I have seen, unfortunately, in the days since I left the District Attorney's office and became a private practitioner, I now do Title IX
defense cases, a frightening erosion of the rights of the accused on college campuses. I think it is distressing, I think that we should all be frightened of it -- even those who may say oh, you know, they're bad people, they've been accused.

Today, they're going for that kid on a college campus. Tomorrow, it might be you. Tomorrow, it might be your child. Tomorrow, it might be your friend.

When we stop honoring due process on college campuses, we start down a very bad path. I have personally seen several lives destroyed as a result of accusations that were not fleshed out on the college campus.

In New York, where I come from, we have now passed into law what is colloquially called the Enough is Enough Law, which is basically a codification of the Dear Colleague Letter of 2011. And in New York, a defendant on a college campus does not have a right to have the charges against him or her presented to them. They are not adjudicated even by a panel. There is an
investigator who gets to review the material, and comes up with a decision based on his or her own interpretation of what was said. The evidence presented is completely one-sided, and these findings destroy lives.

I think that many people don't know about this, but I do respect Secretary DeVos for addressing this, because once a defendant is labeled a sexual predator, their academic record is marked, they are usually expelled from their school. Good luck getting into another school. Good luck getting a job.

So basically, a lot of doors close at that moment. Whether or not they are truly guilty is something that matters. Of course it matters. Nobody wants sexual predators. We all feel that that's a horrible thing. But the, the absence of due process, the absence of inquiry is destructive, in my humble opinion, to our Republic.

So I am grateful that the Department of Education is now evaluating this. I came here from New York with my accent to thank everyone for the
time and the attention that you have given to this
issue.

And having said that, I look forward to
college campuses as much as it should be everywhere. Thank
you.

DR. MCARDLE: Thank you. Our next
speaker is Alexis Goldstein from Americans for
Financial Reform.

MS. GOLDSTEIN: Thank you the
opportunity. Thanks for being here.

My name is Alexis Goldstein. I'm
Senior Policy Analyst at Americans for Financial
Reform. We are a coalition of over 200 consumer,
civil rights, labor, faith-based, and business
groups fighting for a safer and a fairer economy.

As a coalition that is focused
primarily on consumers and consumer protection, we
are deeply concerned with the Department's recent
decision to end the information-sharing agreement
with the Consumer Financial Protection Bureau by
terminating two memoranda of understanding.
One of those MOUs was put in place to ensure that coordination between the agencies on complaint information could continue, specifically complaint information about private education or federal student loans, and, and basically to ensure that students could get the assistance they needed when they were filing those complaints. This is obviously something that we think is very important.

Secretary DeVos also decided to end cooperation with the Consumer Bureau regarding the oversight of student financial services such as the supervision of student loan servicers.

We at AFR believe that this move was a betrayal of students, and a boon to loan servicers, who have a history of preying on students, and it is also a move that makes oversight more difficult, and accountability harder to come by.

The Consumer Financial Protection Bureau has long been on the forefront of working to ensure that servicers like Navient, who have illegally overcharged Americans, including
members of our military, are held accountable. The Bureau sued Navient earlier this year for illegally steering student borrowers toward paying more than they had to in their loans.

And in the past -- excuse me -- coordination between the Department of Education and the Consumer Bureau was very helpful. One particular example of this is they helped to secure $480 million in relief for Corinthian students who were targeted with a predatory private loan program known as Genesis.

DeVos's decision to end cooperation with the Bureau is not just an abdication of responsibility. It is yet another move that shows the Department choosing to act in the interest of private companies like big student loan servicers, instead of protecting students and borrowers.

The action also defies Congress, as was mentioned by another speaker, because the MOU was specifically required by the Dodd-Frank Act.

Americans for Financial Reform urges the Department to immediately reinstate these MOUs
with the Bureau.

In every major decision since the Trump administration has taken over, the Department has chosen to favor the interests of private companies ahead of the students the Department is entrusted with protecting. And no matter how loudly consumer, student, and veterans' groups sound the alarm, the Department continues to ignore the dangers.

The Department rescinded three memos meant to protect borrowers and ensure accountability earlier this year, including one meant to guarantee that servicers who broke the law again and again weren't rewarded with government contracts.

The Department abandoned the victims of fraud at colleges by illegally delaying the update to the borrower defense rule, and creating two new negotiated rulemakings to redo both the borrower defense and gainful employment rules -- rules that are meant to prevent abuse, and hold bad actors accountable.
The Department has also hired multiple former employees of for-profit colleges, including Robert Eitel, who used to work for the for-profit chain Bridgepoint, a chain that would benefit substantially from all the deregulation advanced by the Department. It has also tapped former DeVry official, Julian Schmoke, Jr. to head the Department's enforcement unit, despite his having no background in law enforcement or investigations.

Just last month, at the Republican Leadership Conference in Michigan, Secretary DeVos insulted defrauded students across the country with a comment about students raising their hands for, quote, free money, end quote, which ignores the devastation that students who attended a school that scammed them and did not educate them wreaks -- the ruined credit, the wasted time, the suffocative loans that impact all other areas of your life, and your ability to obtain other types of credit.

With this comment, DeVos also
misrepresented how difficult the Department has
made it for students defrauded by Corinthian, ITT,
American Career Institute, and other schools to
obtain the discharges they are, they are owed by
law.

Even today, tens of thousands of
students are awaiting discharge, and some have had
to sue the Department simply to stop wage
garnishment, even though they are eligible for
discharges.

The Department should move to
immediately process the backlog of applications,
granting group discharges where the Department has
prior enforcement actions that impact 125,000
former Corinthian students by the Department's own
estimates.

The Department's actions under DeVos
have a common theme. They all represent a betrayal
of students, and a boon to private companies with
a history of preying on students. The Department
must stop relying on the advice of private
companies that make millions off students, whether
the students succeed or not, and refocus their attention on defending the students they are entrusted with protecting. Anything less makes a mockery of the mission of this Department.

Thank you for your time.

DR. MCARDLE: Thank you. Our next speaker is Kaitlyn Vitez from U.S. PIRG.

MS. VITEZ: Thank you. Hello everyone. Thanks for having us in today.

My name is Kaitlyn Vitez. I'm the higher education advocate for U.S. PIRG. The U.S. Public Interest Research Group is a consumer advocacy organization with chapters at more than 50 college campuses across the country. And on behalf of these college students, we seek to make college more affordable.

With that mission in mind, we appreciate the opportunity through the Department's Regulatory Reform Tax Force to make the case for a strong rule that lowers the cost of bank accounts and debit card products that are marketed to students on campus.
In 2012, the U.S. PIRG Education Fund released a report entitled The Campus Debit Card Trap: Are Bank Partnerships Fair to Students? In direct response to an uptick in complaints from our college student members and from student government representatives across the country, who decried the high fees, unusual fees, lack of ATM access, and push marketing of these products on their campuses.

We found that two in five college students across the country had access to a campus debit card, often linked to their student ID card, and that these accounts were exclusively loaded with students' financial aid. The cards were aggressively marketed to students through financial aid disbursement and student identification channels, which are both essential to navigating student life.

While colleges gained revenue and reduced costs by outsourcing services to banks and financial firms, these card deals pushed costs directly onto needy students. Students were being
forced to pay fees to access their financial aid, and some of the fees were unusual. They were not found in normal debit accounts off campus.

Finally, the accounts also lacked consumer protections in case of fraud or loss. Meanwhile, the Federal Trade Commission launched an investigation into the high fees students encountered in these products, and aggrieved students launched a class action lawsuit.

In 2014, the US Government Accounting Office issued its own report entitled College Debit Cards: Actions Needed to Address ATM Access, Student Choice, and Transparency that found problems with these banking arrangements in the following areas: fees, ATM access, and the lack of neutrality in the marketing of these accounts on campus.

Against this ample documentation of the program, of the problem, and with its broad authority to maintain the integrity of the federal financial aid disbursement process, the US Department of Education underwent an extensive
negotiated rulemaking process to review the issues arising in the campus banking marketplace.

The final rule, which went into effect in July 2016 made campus banking fairer for student consumers and for responsible providers.

We stand ready to defend the need for prohibition on fees, and the strong account disclosures required by the rule, and ready to enlist the thousands upon thousands of students who have pushed back against the proliferation of these accounts on their campuses in the effort to ensure that the markets stay fair and responsible for students. Thank you.

DR. MCARDLE: Thank you. Our next speaker is Curt Decker from the National Disability Rights Network.

One more time, can you hear me? This is for Curt Decker from the National Disability Rights Network.

No? Okay.

In that case, our speaker will be Ashley Reich, from the Financial Aid Compliance, Director
MS. REICH: Good morning everyone. My name is Ashley Reich, and I'm the Senior Director of Financial Aid Compliance and State Approvals at Liberty University, located in Lynchburg, Virginia.

I'm grateful for yet another opportunity today to advocate for enforcing the regulatory reform agenda. Many of the topics -- excuse me -- discussed today are items that I've testified on previously, as these issues are extremely important not only to our institution, but to higher education institutions throughout the country.

The goal should be to reduce over-regulation and unnecessary overreach in multiple areas, while still allowing proper means for students to obtain the aid needed throughout their education, and promote quality higher education programs.

I won't spend much time on the first two set of regulations, due to the upcoming negotiated
rulemaking sessions later this fall. But with borrower defense to repayment, these regulations and guidance should be completely rescinded, as previous and fully adequate avenues of enforcement already exist.

To restore due process, reduce overregulation, and unnecessary overreach, and provide students with an effective means to bring allegations of abuse from schools, a repeal of these regulations is in order.

With gainful employment, as well as duplicative and excessive consumer information regulations and guidance, these should be completely rescinded, with the authority placed back into the hands of regional accreditors.

Institutions of higher education already report graduation rates through various avenues, including but not limited to: the National Center for Education Statistics, or NCES, by way of the College Navigator, state reporting, accrediting bodies, government websites, college scorecard, Net Price Calculator, and the federal
shopping sheet. In addition, separate calculations, deadlines, and databases are being used to upload and report this data to ensure its reliability.

Personally, I'm looking forward to the scheduled negotiated rulemaking sessions surrounding both of these items later this fall, and I applaud the Department for allowing the opportunity to revisit these crucial items that need to be done effectively.

With third-party servicers, I echo a previously colleague that spoke on this. Recent Ed guidance expanding and attempting to clarify the definition of third-party servicer should be completely rescinded. This expansion was, in part, spurred by at least one bad actor institution, but its implications will be felt across several thousand colleges and universities.

The Department has also shown a lack of understanding of the complexity of integrated information systems, and an unwillingness to clarify definitions to reduce unnecessary
regulatory burden.

With fraud enforcement, this particular concept is one that is near and dear to my heart, as I have 11 of my staff members that are solely devoted to proactively tagging potential fraud on a daily basis. This is their full-time job. It is imperative that the Department develops a nationwide, uniform, and one-record system to properly track Title IV fraud with integrated state and local law enforcement measures.

One idea that we had is to add a tab in NSLDS to serve as an indicator of potential fraud to prompt a review. The tab and an indicator should be present in NSLDS, even for individuals who did not receive a disbursement of Title IV. It would also be helpful to have an ad hoc report that could be downloaded from NSLDS that would show prospective matches.

An examination of leveraging existing federal systems or developing a new system to house the data on potential student aid fraud and stolen
identity accounts is necessary.

With state authorization, the Department has recently pressured states to increase regulatory requirements and burdens on institutions of higher ed, in contradiction to Ed's previous stance of accepting state autonomy on these matters.

The ability for a state to enforce its own laws in addition to Ed's oversight would create unnecessary confusion for students and institutions alike, and has the potential to increase costs and lengthen the approval process.

In addition, many institutions and organizations agree with the recommendation to remove federal oversight of the entire state authorization process, as this would reduce excessive administrative burden, and promote the availability of more affordable and accessible higher education.

The federal role in state approvals and authorizations should be eliminated by removing the July 1, 2018 set of regulations to allow states
to retain the ability to enforce their own requirements. The Department oversight in this area is cumbersome and unnecessary.

With the accrediting agency oversight, accrediting agencies should be given full authority over curricular designs, outcomes, and consumer information compliance enforcement, as part of each accrediting agency's unique perspective and process. The established accreditation process exists for the dual purpose of evaluating the quality of higher education for improvement.

In closing, our institution has already submitted detailed comments on regulatory reform agenda, and I thank you for your time and consideration today.

DR. MCARDLE: Thank you. Our next speaker is Tanya Ang from the Veterans Education Success.

MS. ANG: Good morning. I am Tanya Ang, Director of Policy and Community Engagement at Veterans Education Success. Our mission is to
protect and defend integrity, the integrity and promise of the GI Bill, and other federal education programs for veterans and service members.

I appreciate the opportunity to share with you how both the gainful employment and borrower defense rules helps ensure necessary student protections, as they work to successfully accomplish post-secondary education, and contribute to a stronger workforce.

For the past 17 years, I have had the privilege, in some capacity or another, to support military-connected students navigate post-secondary education. I have worked directly with the students as their academic advisor, helping them prepare for graduation, and then at a more national level, where I supported institutions of higher learning on building out and enhancing support systems for these students.

Through that process, I have learned a significant amount about these students, and the various challenges they may face. Approximately 67 percent of all military-connected students are
first generation, low income, minority and/or other underserved student populations who have very little understanding of the complexities of higher education.

To them, all education is created equal, and they believe that the programs approved by the government to accept Title IV funding, tuition assistance, or GI Bill benefits are trustworthy institutions. They pursue education with the hopes of helping improve the socioeconomic standing of their family, and trust that at the end of their academic tenure, they and their families will reap the benefits of a college education.

Unfortunately, these are many of the students who have found out the hard way that all higher education programs are, in fact, not created equal, and that the return on investment for their hard work, dedication, and often incurred debt was less than satisfactory.

They find it difficult to find a job in their field of study, and are still saddled with significant debt that must be paid off. Others,
unfortunately, do not even have the opportunity to finish their degree program due to school closures.

Last year, I worked with thousands of students who had their higher education ripped, dreams ripped out from underneath them as ITT Tech closed its doors. Some students were just getting ready to start their program. Others were halfway through, and others were getting close to graduation.

Even though they had military benefits, many still had to take out loans to help cover the costs of their programs. When the school closed, they were left with no degree, wasted benefits, and now debt, with no job to help pay off their loans.

Consider a 31 year old combat veteran who was unable to join us today, but asked to share his personal experience. This gentleman served in the Army National Guard from 2004 to 2013, and deployed to Iraq and Afghanistan. He was interested in pursuing a career in IT, so after leaving the Army, he used his GI Bill benefits at ITT Tech.
Here's some of what he shared with us:

I maintained a 3.67 grade point average, but I noticed that me and my fellow students weren't getting the best education at all. Why are we getting outdated course material? Why are instructors not even competent in what they teach? How can I know more about the subject than my own instructor?

I brought these concerns to the attention of the faculty, but to no surprise, they weren't any help at all. Fast forward months later, ITT Tech closes down for good. I knew this was going to happen, and I left before they closed their doors on all of us.

What more can I do, since they lied to me? They didn't explain a lot about the loan which was taken out, and now I owe almost $5000 to Nolnet. My experience of ITT sometimes brings me to tears. You try so hard to get your education in order, and then this happens.

Why are schools like ITT Tech taking so much money from Post-9/11 GI Bill that me and my
fellow veterans have earned by volunteering to defend this great country? What more can we do about this, because at the end of the day, veterans are the ones taking the biggest hit. We can't recoup our GI Bill, and we've lost time away from our family and friends, and have nothing to show for it.

Unfortunately, the experience of this gentleman is not unique. Thousands of students have been impacted by predatory institutions looking to take advantage of them. Due to the 90/10 rule, many of these military-connected students have a target on their back.

They are left without a quality education, and are saddled with debt they cannot pay off due to their inability to find gainful employment. This is not only unfair to these students, but to the American taxpayer whose money is subjected to the waste, fraud, and abuse of these predatory institutions. This has got to stop.

Post-secondary education offers an opportunity for those who might not otherwise have
it better, have it, to better their life, and the
lives of their families. Many served in the
military not only to serve our country, but with
the dreams of being able to one day go to college,
and change the trajectory of their family.

These students want to contribute to
the American economy, find a viable career, and
provide opportunities for their children they
never had. Instead, they are left with debt,
limited ability to further their career, and at
best, a poor education.

Thank you.

DR. MCARDLE: Thank you. Next we have
Bethany Keirans from the Vietnam Veterans of
America.

MS. KEIRANS: Good morning. My name is
Bethany Keirans. I'm an Assistant Director for
Policy and Government Affairs at Vietnam Veterans
of America, and on behalf of our more than 80,000
members, I appreciate the opportunity to come in
and speak to you today on gainful employability and
borrower defense.
In June of this year, Secretary DeVos announced the Obama-era borrower defense rule that allowed defrauded students to have their educational loans forgiven would be suspended. DeVos stated the rule was simply a way for students to, quote, raise his or her hands to be entitled to free money, unquote.

But for student veterans, nothing about having student loans forgiven is free. Their GI Bill, or voc rehab entitlements weren't earned for free. The sacrifices they made for our country weren't free. There's no monetary replacement for scholarships, grants, private loans taken out in order to complete their degree plans.

In fiscal year 2014, 11.5 percent, which is almost 600,000 students, defaulted on their student loans. Adding that to the number of students already in default, the total reached 8.5 million. Ladies and gentlemen, that's 12 times the population of Washington, DC.

The decision to freeze the review of predatory institutions, along with Secretary
DeVos' remarks, devalues the hard work that tens of thousands of veterans, single parents, and young people have done to better themselves in continuing their education.

The very defense this regulation intended to provide has been stripped away. Every day, more veterans are being scammed by predatory institutions, while this Department, along with the Trump administration, sits by in inaction.

VVA has heard countless stories of benefits wasted on bogus degree programs, such as institutions as ITT Tech and Corinthian, veterans left holding the proverbial bag -- a worthless degree, a wasted opportunity to achieve their goals, and an unfathomable amount of debt they were deceived into taking on.

By undermining the gainful employment regulation that enforces Higher Education Act's requirement that all career education programs receiving federal student aid prepare students for gainful employment in a recognized occupation, and by loosening limits on the ability of students, I'm
sorry, the ability of schools receiving federal aid to use pre-dispute arbitration clauses and class action waivers to evade accountability, this Department is doing a disservice to our student veterans.

It's obvious to us that the Department of Education's willful ignorance of fraud has poisoned the well, and our student veterans are, have no choice but to drink from it. I stand before this body today to remind you that this is not what helping student veterans get an education is about, and that it's time that you set the standard regarding protections for both our students and our taxpayers.

Thank you.

DR. McARDLE: Thank you. Our next speaker is William Hubbard from the Student Veterans of America.

MR. HUBBARD: On behalf of Student Veterans of America, an, a higher education nonprofit representing over 1.1 million student veterans in post-secondary education, I stand
before you strongly urge this body to stand with students.

The intent of Executive Order 13777 is to alleviate unnecessary regulatory burdens placed on the American people. We fully support this intent. We do not, however, interpret this intent to mean the decimation of student protections. And I appreciate this opportunity to further explain our position.

My name is Will Hubbard. I am a former chapter leader of Student Veterans of America at American University, and now serve on the national headquarters staff as Vice President of Government Affairs.

I also served as a non-federal negotiator in the original borrowers defense rulemaking in 2015, representing the perspective of our military-connected students, and have been nominated by nearly 30 military and veteran organizations for the upcoming rulemaking negotiations.

With rumors of hard-won victories to
protect students from being at risk, we delivered a letter this spring on behalf of dozens of military veteran and family organizations to the chairman of the Senate Health Committee and the House Education and Workforce Committee citing our concerns.

We also testified before this body in July on these same issues to demonstrate the importance of each.

It would be hard to find anybody who likes the idea of streamlining government more than me. Decision-making processes that are slow, and overburdened with regulatory tape are a significant hindrance to protecting student veterans from predatory schools.

As a member of the military, I learned about the concept of Commander's intent, a leadership philosophy which dictates that decision-making should occur at the most local level possible, with individuals being empowered to execute a mission. All too often, unfortunately, Commander's intent is obfuscated.
like a game of Telephone, the purpose of an order being lost in translation.

Mis-application of intent is a dangerous possibility. Interpreting the intent to alleviate unnecessary regulatory burdens does not mean rolling back crucial protections for students.

The Executive Order specifically cites that those burdens should be reduced on behalf of the American people. Are not students the American people?

Therefore, we highlight several critical protections which should be considered for modification through strengthening. First, the gainful employment rule. This rule enforces the Higher Education Act's requirement that a career education program receiving federal student aid must prepare the student for gainful employment in a recognized occupation. This common sense requirement applies to career education programs at all types of colleges, and protects both students and the taxpayers from fraud, waste, and
Second, new regulations on federal student loan relief. These regulations for defrauded borrowers and college accountability, which make it harder for schools to hide fraud, and clarify avenues for students to receive loan relief they are entitled to under the Higher Education Act.

These regulations should be modified to be inclusive as possible, with the benefit of the doubt being given to students who attended programs that consistently demonstrate a pattern of intentional deception of their enrollees.

Third, the incentive ban compensation. This ban was enacted in the Higher Education Act as well, more than 20 years ago, with broad bipartisan support. School is a major life decision, not a trip to the supermarket. Let's take it seriously. Any school that says, as a rule of thumb, that students should enroll today, it's a point of concern.

We remain, we maintain that schools
that achieve strong outcomes ought to be openly embracing the idea of student protections. These protections only negatively affect schools who appear committed to defrauding taxpayers, students, and the broader American public.

On behalf of national organizations representing our nation's military service members, veterans, survivors, and families, we vehemently urge this Department to ensure important laws and regulations protecting students are not watered down or eliminated. We hope that agreement is possible in order to protect America's military heroes and their families. Thank you.

DR. MCARDLE: Thank you. Next we have Pam Lightfoot. Is she here? Ah. Thank you.

MS. LIGHTFOOT: Hi. Good morning. I, I guess I took that last spot. I, I said maybe if there's something I can say, I'll go ahead and do it.

I am a mom. I am also a veteran. I gave my GI Bill benefits to my older son. His not-real-name is Jerry, say, and he has been
dealing with being accused of stalking at a Virginia university.

If I, if it wasn't for my just old woman-ness, my hard headedness, and my background, over 36 years of federal government service, as well as 26 years in the military, I don't think he would be alive today.

The allegation against him was crushing. It's still crushing. It's something that you wouldn't want to wish on your worst enemy.

As a lot of people ahead of me have said, and, mainly it's, again, I wrote, started to write down names, but most of the people were, I think you understand from where they came from.

I have been involved with the process, and it has been atrocious. There has been no due process any stage of the matter. I've been through everything to the provost, and now the matter has been concluded, as far as the university is concerned, but we'll probably be seeking to sue the university in federal court.

The, I am a Democrat, which is odd,
being in the military and whatnot, and, and don't particularly agree with a lot of things that Secretary DeVos is, has done. But I had no idea about this Title IX at all until my, my son was accused of all this.

It just totally came out of left field, and, and, and was just outrageous. And the continuation of Vice President Biden to insist, and other Democratic senators and whatnot, it's just amazing to me that they don't believe in due process. That is the basis of what our government is, our, you know, our, our criminal justice system. Any sense of fairness.

The, you know, I, for remedies, you know, I would like to, the, for the Department to hopefully put a lot of this stuff for the serious allegations of assault, rape, back, frankly, to the police. Campus police have no business taking care of these kind of things whatsoever.

Stalking, again, the officer had mentioned that for, that different states definitions, it varies. In fact, Virginia's does
not agree with the, the act's definition of that.

And I'm, obviously, as my son is, his issues concluded, I'm interested in what's going to happen for those children who have been disciplined so badly in the past. We need to rectify what has been done to those kids.

And I'll tell you, even if we can't find, can't afford an attorney, and a few of the speakers here had said that, gee, my son received such a small discipline, to not even worry about it. I'm like, you know, that's not the point.

Any unfair discipline, any unfair discipline is not right. And, you know, I'm going to, if I have to be pro bono, or you know, get my son up there by himself, and a federal judge, I will do it -- because if the Department of Education doesn't fix this, and help remedy what has been done to the students in the past, I guarantee the federal judiciary will.

And they have been. They have been a lot, and I recognize a lot of these people speaking from tweets, and readings, cases and stuff like
that, and I applaud them making the trip here. I just live in, in Virginia. It's not that far for me, to speak out for their kids.

Now, for the, you know, the, the financial aid, just a totally different subject, FAFSA requires a person to, a young person to have their financial, the parent's financial aid information up to age 24. I have, my son has a, a friend whose parents refuse to give them information, and the FAFSA website nicely says, oh, we're so sorry if your parents don't want to give you your information. There's nothing we can do. Maybe you can get one of your counselors at the college to speak to your parents.

And I'm thinking, oh my God, just let these children, who want to continue their education, and have no financial basis to allow them to, to do an affidavit, or something said, somebody said about --

Thank you very much.

DR. MCARDLE: Thank you. Thank you.

That concludes our morning session. We will take
an hour break for lunch, and reconvene again at 1:00. Thank you.

(Whereupon, the above-entitled matter went off the record at 12:01 p.m. and resumed at 1:01 p.m.)

MS. SMITH: Hi, everybody. The crowd has dwindled.

DR. MCARDLE: At least for now.

MS. SMITH: At least for now. Couple of quick announcements. One, and you're going to go, roll your eyes, but please don't go out the emergency exit. I was wondering why I was hearing beep-beep-beep-beep-beep-beep before. So we, you can only go out where the, where the guard entrances are, okay? So these big, red lettering across the door. It will set off alarms, and cause a little havoc.

The second announcement is, around -- and I'm going to try and do this as, with the least disruption -- but I am going to be, or a little after 2:00, leaving. A colleague will come in and take my place, and then I'll be back. I just have a,
a meeting upstairs. I didn't want it to, whoever's speaking around that time, please don't be offended. But we just need to make a quick switch, and then I'll be back.

And then we're going to get started.

Okay?

DR. MCARDLE: Absolutely. Welcome back, everybody. Our -- I don't have that quiet of a voice. I'm not sure why it's not --

Our first speaker this afternoon is Harrison Wadsworth from the International Education Council. If Harrison is here. And we do not see Harrison. Unless that's --

MS. SMITH: Oh, I hear his voice actually, maybe --

DR. MCARDLE: I know, that's why I was like, is somebody out there, maybe?

Thanks, Conway. Just going to check and see if he's there. He's going to check. The, I see some people who are just wandering in.

(Pause.)

MS. SMITH: If not, we'll have to move
DR. MCARDLE: All right. Okay. In that case, we will move on to the next speaker, who is Cheryl Dowd, from WCET State Authorization Network. Hi, Cheryl.

MS. DOWD: Thank you. Thank you very much for this opportunity today.

My name is Cheryl Dowd. I'm the Director for the WCET State Authorization Network, SAN. The State Authorization Network is a nonprofit membership organization representing approximately 700 higher education institutions nationally. We provide training, advocacy, analysis, best practices, and networking for institutions managing regulatory requirements for their out of state activities.

SAN is an operational unit of WCET, which is the WICHE Cooperative for Educational Technologies, which supports higher education institutions in their creation and use of educational technology.

SAN wishes to address the release of the
regulations for state authorization that came out last December, that are to go into effect July 1, 2018. SAN would like to make three points regarding the state authorization regulations.

SAN, first, SAN supports the intent of the federal regulation, to provide additional consumer protection by requiring institutions follow state laws where the institution serves students -- excuse me. We believe these regulations tying Title IV funding to the requirement that institutions verify that they are following applicable laws in the states where the institutions are serving students is important to protect these students from fraudulent actors.

As a part of the responsibility to distribute and oversee title IV funds, it seems reasonable that the Department of Education expect institutions disbursing aid to follow the laws and regulations in each state in which it serves those students.

Despite calls for less regulation and oversight, the elimination of federal regulation
for state authorization would not eliminate the responsibility of each institution to be compliant with state regulations in each state where the institution offers activities to students, such as online courses and field experiences.

States have their own regulations which must be followed. And so within this, this second point, we note that the vacated version of the federal regulation for state authorization of distance education was what opened the door for states to enforce the various aspects of their regulations -- the application process, fees, renewal requirements, and definition of activities that are regulated, which vary so widely state to state. Additionally, failure to comply with state regulations can rise to a violation of federal law for misrepresentation.

The State Authorization Reciprocity Agreement, SARA, created an avenue for participating institutions to follow one set of requirements for compliance in all SARA member states. This agreement allows institutions to
conduct distance education-related and limited additional activities, as uniformly defined by the SARA agreement.

As a result, SARA's consumer protections are extended to students of more than 1500 institutions participating in the agreement. These institutions have seen costs stabilize due to a uniform annual fee to participate in SARA. The growth of SARA has greatly reduced the compliance costs, while providing more consistent oversight of activities of the institution.

In addition to providing a single set of requirements for state authorization compliance, SARA requires the institutions participating in SARA to provide notification and disclosures related to programs leading to professional licensure, and an elimination of the new federal notification disclosure requirements under these new state authorization regulations would not eliminate SARA's institutions' commitments to comply with SARA requirements to provide students with notice related to programs
leading to professional licensure or certification in the states where the institution serves those students.

Again, failure to provide notification could also, in some circumstances, rise to the level of misrepresentation, or run afoul of similar state-based rules.

And the third point is, if the Department chooses to move forward with the regulations with no changes, clarification of the language is needed as soon as possible for institutions to properly implement the requirements directed by the regulations to be compliant with the effective date of July 1, 2018.

There are five questions we wish the Department to address if they choose to move forward with these regulations. First, will the Department enforce the regulation as of July 1, 2018? That is the effective date, will, but will it also be the enforcement date?

The Department of Education recently delayed enforcement and/or compliance
requirements on the gainful employment, borrower defense and cash management regulations. The first two were delayed only days before the implementation date, and cash management was delayed a few days after its effective date.

Institutions would appreciate early notification about whether the Department will enforce, further interpret, clarify, delay, or redevelop this regulation well in advance of the July 1, 2018 deadline.

Second question is about compliance location. When one reads the regulation, it's hard to determine what is the exact requirement by the regulation. There is language in regard to the use of the word reside.

And so, and finally, so there are several, the Department will be able to review the questions that we have provided within the document that we submitted several months ago, in July.

But in final, I would like to point out, we encourage the Department to strongly encourage maintaining the state authorization of distance
education requirements. But we recommend that these basic tenets of the regulations remain, but simplified in its most current form, and guidance provided in a timely fashion due to the current effective date of July 1, 2018.

Thank you.

DR. MCARDLE: Thank you very much.

MS. SMITH: Ladies and gentlemen, we really do, we're, not to be obstreperous, we really do need to stick to the time, because we have literally somebody every five minutes. So please don't be offended when I call time. I really do need you to wrap it up, okay? Thank you.

DR. MCARDLE: Our next speaker is Emily Garrett with the Feminist Majority Foundation.

MS. GARRETT: Thank you for having me here today. My name is Emily Garrett, and I am currently a sophomore at the George Washington University.

Although this public hearing is not about the Office of Civil Rights, OCR never provided a forum for students like myself to
express our comments on the Title IX guidance in a public hearing. I felt as if it was my duty to do so today.

It is essential to ensure the success of all students on college campuses. All students deserve the right to a safe, meaningful education. The rights of students are currently being infringed upon by the Trump administration, specifically the Secretary of Education, Betsy DeVos.

DeVos recently withdrew two crucial Obama-era guidelines, the 2011 Dear Colleague Letter, and the 2014 questions and answers on Title IX and sexual violence. Both guidelines served to clarify institutional responsibility to protect survivors of sexual assault.

These rollbacks allow colleges and universities to use mediation and cross examination methods, as well as to deny survivors their right to appeal a decision. Due to these changes, the emotional trauma, and triggering manner in which these cases can now be handled have
even longer-lasting emotional trauma for the survivors.

These inhumane measures take away the rights of students to have access to education free from violence. Our country cannot continue to put aside the sexual assault and violence epidemic that has become a normalized practice on college campuses.

The current administration is trying to silence the right of survivors by giving more attention and rights to assailants - or as Betsy DeVos has stated - the rightfully un-accused.

We need to believe survivors, and create a society in which survivors feel safe to share their stories and pursue legal processes if they so choose to do so.

The current climate within the US, with the unbelievable backlogs of rape kits in the criminal justice system, the lack of representation for survivors, the lack of accountability on college campuses, the lack of preventative measures, and the lack of access to
medical and mental healthcare after it has occurred to someone is disheartening.

It is proven that students who have experienced some form of sexual violence do not perform as well academically afterwards. This could be due to the fact that their assailant is in their class, they don't feel comfortable going back to their dorm, because that is commonly where the act of violence occurred, or even walking around campus because of the fear that they might run into their assailant.

Until the lasting effects of sexual assault and violence are brought to light among all people, especially government officials like the Department of Education, we will continue to go nowhere. We cannot ensure the well-being of our communities without taking into consideration the harms that lots of students face on college campuses, as they are part of our population, and need to be heard.

As a student at the, at the George Washington University, and as a member of Students
Against Sexual Assault on our campus, I have seen firsthand the lack of accountability and the lack of support that the schools provide for someone who has undergone this form of trauma. This is one of the reasons why so many students do not report their experiences.

I believe that we need to hold universities and college campuses accountable. All of my fellow peers that have experienced sexual assault deserve the rights that colleges are said to provide for the injustices that they have faced.

Thank you.

DR. MCARDLE: Thank you very much. Our next speaker is now Harrison Wadsworth from the International Education Counsel.

MR. WADSWORTH: Thank you very much. These, thank you for the opportunity to comment to the Department of Regulatory Reform Task Force. My comments today are to supplement written comments submitted to the Task Force on September 19 on behalf of the member institutions of the International Education Counsel, a trade
association of eligible foreign colleges and universities that participate in the direct loan program.

The direct, the regulations upon which we are commenting generally are included in sections 34 CFR Part 668, although there may be other regulatory sections that also the effect the ability of foreign schools to participate in the direct loan program. All, of course, derive from the Higher Education Act.

The members of IEC are some 60 public and nonprofit institutions of higher education in 14 countries outside of the United States that are eligible under the HEA for the direct, Stafford, and Plus loans in order to make high quality, international education available to thousands of American students. IEC dedicates itself to ensuring that student loan programs continue to be available to US students who need them to finance their international educations.

It's critical to remember that a foreign institution is regulated first and
foremost by its home country's government. The HEA requires as a basic, an eligible institution to be in a country whose regulatory oversight is considered to be at least equivalent to that in the United States.

IEC recognizes that regulatory oversight of the use of US government loans is necessary, but we have found that treating a foreign institution almost as if it was in the United States for regulatory purposes makes it increasingly difficult for foreign institutions to offer places to American students who need to borrow to finance higher education.

I'd just like to highlight a few of the important issues that are imposing an expensive and unproductive burden on institutions, and which have resulted from Department interpretations in the past, and importantly, expansions of the requirements of the HEA that are closing off opportunity for US students to study at high-level institutions, including medical schools – and in many cases, have turned American students into
second-class citizens by shutting them out of programs of study that are open to others who don't have to borrow student loans to attend.

Let me clarify that to add, let me clarify that it's Americans who need to borrow student loans who are cut off from these programs that are available to Americans who don't need to borrow, as well as students from other countries.

First, the Higher Education Act gives the Department broad authority to determine regulations, whether a foreign institution is comparable to a US institution of higher education. The current regulations in this matter specifically in regard to written arrangements and distance education are out of date, and should be revised to reflect modern practices in higher education.

The Department has no regulation prohibiting students from receiving direct loans to enroll in a program of study that includes any component taken in the United States, with a very limited exception for doctoral students, or at
another foreign institution, unless that institution is also a foreign school that's itself eligible for direct loans.

There are about 400 schools worldwide that are eligible for direct loans. Obviously, there's a lot more schools in the world than, than 400 that are, would be good places for a student to maybe do a study abroad semester - even take a class, one class at that, an eligible institution, or in the United States.

Home in summer, want to take a class to continue their studies, graduate faster, then they are excluded. They lose access to loans or the rest of their program of study. To think that's a bit of an extreme position, and that, that needs to be reviewed, and modified to meet modern, to, to deal with the way higher education is operated today.

Also, there is conflicting education, conflicting language within the HEA on the, on distance education. To date, the Department's taken the position that an entire program is
ineligible for American students receiving federal loans if any component is taught via distance education.

IEC believes the intent of the statutory language is to ensure that a student enrolled abroad actually attends classes abroad, and is not, for example, sitting at home in the United States.

One subsection of the Higher Ed Act says that no more than half of a program taught at a foreign institution can be taught via distance education, while another subsection says, an eligible program cannot include distance education in whole or in part.

Congressional intent is contradictory. Did Congress mean no more than half, or none at all?

In such a situation, unless Congress clarifies its intention, the Department's regulations, in our view, should follow the best public policy, and not simply defer to the most restrictive policy, as is now the case.

We would ask that the Task Force and the
Department review this, this rule, and, and we believe that a better policy would be 50 percent, the 50 percent rule only - or some other rule, whatever the percentage may be that ensures that a student is actually abroad, not sitting at home in the US, but does not have this, this rule that only, any one class eliminates them from being able to receive direct loans at all for the rest of the foreigner's, for the rest of the program of study.

There's some other aspects that are in the written comments that me submitted, particularly with regard to medical schools, that we would ask the Task Force to take a look at. Thank you.

DR. MCARDLE: Thank you very much. Our next speaker is Dr. Quintin Bullock, President of the Community College of Allegheny County.

DR. BULLOCK: Good afternoon, and thank you for allowing me to appear before you to outline the benefits of maximizing and enhancing the Pell program.

My name is Dr. Quintin Bullock, and I
have the pleasure of serving as the president of
the community college of Allegheny County, located
in Pittsburgh, Pennsylvania.

The college's annual total enrollment
is 26,782 credits, and 16,370 non-credit, with a
total of 43,152 unduplicated head count.

I'm here today to speak to you regarding
the important effect of the Pell Grant program has
upon our students, and the college students across
the country. I'm especially urging you to
consider to remove the sliding scale reward
mechanism, and replace it with a flat rate for all
students who qualify, to increase the return on
investment of Pell, preserve Pell availability, to
boost completion rates, and significantly increase
lifetime earning potential of awardees, and to
support year-round Pell.

As I'm sure you are aware, the federal
Pell grant program is grounded in the principles
of advancing equity and access economically
disadvantaged students, who already face increased
challenges that hinder their ability to access, and
to succeed in their pursuit of higher education.

Pell Grant also plays an important, significant role with community college students, given the fact that many of our students are amongst those with the lowest income. In fact, one third of all Pell Grant recipients attend community colleges, and of the 8 million students attending community colleges, 3.2 million of them receive Pell Grants.

Pell Grants will also cover more expenses for community college students, and those attending other sectors of higher education, who also help to minimize students' borrowing and student debt post-degree.

Pell Grants are also credited with boosting the completion and graduation rates, lifetime earning potential, and social welfare for low income students, according to a working paper published in the National Bureau of Economic Research most recently.

The Pell Grant program targets grant aid for low-income college students, and not only
improves the likelihood that degree completion rates will be increased, but also that students who benefitted from the Pell awards have increased their earnings for graduation.

The author of the study further states that the Pell awardee also experienced improved social welfare for years following graduation or completion. Specific findings include that students eligible for the Pell Grant are 13 percent more likely to graduate within four years than students with incomes just above the threshold.

The study also found that eligibility for the maximum Pell Grant award also had significant effects on annual earnings after college, with increases between 5 percent and 8 percent.

In conclusion, I respectfully recommend that you consider increasing the return on investment by removing the sliding scale award, and replacing the flat rate for those who qualify. While Pell Grants are very important across all sectors of higher education, the grant awards are
particularly critical to community college students, and can mean the difference between attending and dropping out.

The Pell Grant for a full-time student can cover full costs and tuition for many students at CCAC, but many of our students earn just enough money to limit their Pell eligibility, and thus limit their access to post-secondary education. These students are not eligible for a full Pell, but have a relatively large gap between their final cost for attendance, and the amount of Pell Grant for which they are eligible.

Further, this group of students are often left with no other option than to borrow, or to try to utilize their own resources to address their bills. Many of these students may also struggle to put food on their table and provide shelter for themselves and their families.

Also preserve Pell availability, and support year-round Pell. In the years since the recession, Pell spending has decreased according to the statistics of US Department of Education.
The implementation of the year-round Pell Grant availability would be a great advantage to students by allowing them an additional semester of Pell coverage in the same academic year.

In closing, I would like to thank you again for allowing me to speak to you about the federal government investment in Pell. Thank you.

DR. MCARDLE: Thank you. Our next speaker is Daniel Elkins from the Enlisted Association of the National Guard.

MR. ELKINS: Thank you. The Enlisted Association of the National Guard represents the interests of more than 452,000 women and men in the Army and Air National Guard, and we deeply care about protecting the Post-9/11 GI Bill.

We firmly believe that every student veteran has earned the right to utilize their benefits at a reputable, affordable, high-quality institution. Good schools help our veterans pursue their life aspirations and career goals. Unfortunately, when institutions fall short, student veterans are hurt, period.
As a country, we're better than this, and it's our duty to fulfill our commitment to those who have served. We believe the upcoming negotiated rulemaking process for gainful employment presents an opportunity to work collaboratively to achieve meaningful, lasting protection to all student veterans.

There is no doubt the Department of Education and those who are at the negotiating table will face a tough challenge. Reaching consensus will be difficult. The mere words gainful employment elicit strong reactions from various stakeholders.

Unfortunately, the process has become intensely political, and that needs to change. Sure, we need to move forward. But had we reached consensus around the table last time around, we would not be going through this process again. And even though it will be difficult, I believe reaching consensus, and establishing a strong set of protections to ensure all student veterans are well-served by all institutions is the best way to
achieve better higher education as a whole.

All legitimate, quality, high-performing institutions should welcome this outcome, and those that show excellence should be highlighted. At the same time, predatory, low-quality institutions at all levels must be identified and eliminated, regardless of sector.

If there's no consensus this time, the process will continue to be politicized, needlessly delayed, and most importantly, student veterans will become victims, again and again, of predatory practices.

When we work together, we can achieve powerful results. And I'd like to point to an accountability tool that's reached results because of collaboration. HR 4057 and Executive Order 13607 led to the establishment of a comprehensive complaint tracking system aimed to gather real-time direct input from veterans, service members, and their family.

The Department of Veteran Affairs, the Federal Trade Commission, the Department of
Justice, and the Department of Defense, the Department of Education, and the Consumer Financial Protection Bureau all came together to implement an integrated system that is now available to 2000 law enforcement agencies nationwide.

The system has already read to sanctions on institutions for fraudulent and deceptive practices targeted toward service members and veterans.

This law had its early beginnings in a collaboration that reached consensus against insurmountable odds. In front of me today, this morning - or I should say this afternoon - is a signed letter by multiple stakeholders across higher education in the veterans community. Just to name a few, the letter includes the American Council on Education, the National Association of College Admission Counseling, the University of Phoenix, the Association of Private Sector Colleges and Universities, the Veteran of Foreign Wars, the American Legion, and Student Veterans of
Isn't it amazing what can be accomplished when stakeholders work together collaboratively? Nobody's talking about re-evaluating, or starting over on the complaint tracking system, because our outcome was accomplished in a collaborative way.

Is it perfect? No. Is more needed? Yes. Is it sound, meaningful, and has it had a positive impact? Absolutely, and that's what matters.

We believe now is the time to improve accountability across the board. Negotiated rulemaking on gainful employment are opportunities to build a strong framework of protections based on collaboration and consensus. I strongly believe consensus can be reached, and the goal should be to protect all students, all veterans, and all service members at all institutions.

Together, we can achieve meaningful, lasting protection for all students if we work earnestly to select negotiators who will work
collaboratively to reach a consensus. Select negotiators who are committed to protecting all students, and use the process to truly examine legitimate ways to protect veterans at every institution.

Thank you.

DR. MCARDLE: Thank you. Our next speaker is Gisela Ariza from the Leadership Conference on Civil and Human Rights.

MS. ARIZA: My name is Gisela Ariza, and I am a Policy Analyst at the Leadership Conference on Civil and Human Rights in Washington, DC. We are a coalition charged by our diverse membership of more than 200 national organizations to promote and protect the civil and human rights of all persons in the United States. We work toward the goal of a more open and just society, an America as good as its ideals.

Today, I am not only here as a representative for my organization, but also as a first generation college graduate, a daughter of two immigrant parents, and as a counselor who has
worked with students at the high school and college
level, and have helped them navigate their higher
education journeys.

I'm here to talk about some of the
experiences the students of color I worked with
encountered during the process of pursuing a higher
education degree, including the harmful practices
they experienced when they became student loan
borrowers for the first time.

During my time as an educational
counselor with the Educational Opportunity Center,
the EOC, a federally funded TRIO program that helps
non-traditional students with college admission
and financial aid, I quickly learned that for many,
many for-profit colleges were taking advantage of
some of our most disadvantaged students.

During their short period of time
enrolled in these for-profit schools, they
acquired massive student loans, a decision they had
hope would pay off in the future upon finding
employment. However, for most, this was never the
case.
Many were already facing financial hardships. A lot of them were primary breadwinners, or they had children to feed, and in many instances, they worked two jobs.

When the students came to the Center, they brought in past due statements and letters from agencies promising to take legal action against them. They showed me the calling history in their cell phones to demonstrate the high number of calls they were receiving from debt collection agencies that harassed them at all hours of the day. In some instances, the students left my office in tears, feeling defeated and frozen, and not being able to do anything about their debt.

As a young counselor, I felt helpless. Our Center was our final resort, but unfortunately for most of our students, the harm had already been done. Their credit had already been affected, the interest rate on their debt had already gone up, and the hole of debt was only getting deeper.

I was disgusted, and I continue to be disgusted today, by the unethical marketing
tactics that many for-profit colleges use to lure in students of color. We've all seen and heard the commercials and radio ads, with the emotional messages that remind students about their unfortunate circumstances.

These abusive strategies and outright assault on our most vulnerable students is something we should all stand against, including Secretary DeVos, as the leader of the Department of Education.

The Department of Education recently posted a notice in the Federal Register indicating its intent to re-open regulations, and weaken protections for marginalized students. These are regulations that the civil rights community fought hard for. The borrower defense regulation was put in place to protect students who had been deceived, and the gainful employment regulation was in place to help prevent this from happening to students in the future.

On September 19, the Leadership Conference co-authored a letter along with 39 other
organizations urging the Department of Education to protect student loan borrowers of color. In the letter, we provided extensive data that demonstrates the different ways that borrowers of color experience disproportionate levels of debt, especially among students who attend for-profit schools.

They are likely to have higher rates of debt and default than their peers at other schools. We know that students who attend these schools are also less likely to graduate, and unable to find well-paying jobs. I urge the Department of Education to protect student loan borrowers of color and their peers, and provide federal oversight so that we can put an end to the damage that for-profit colleges do to thousands of students throughout the country. The Department has a responsibility to protect borrowers of color from companies that continue to prey on them, and without hesitation, crush their dreams for a better life.

I learned a lot from the students while
I worked at the EOC, and one thing my students taught me was that they were determined to make a better life for themselves. For many of them, the path to college attainment was a primary route out of poverty, and it is that determination which has inspired me to speak out today.

I want my students to know that the civil rights community will continue to fight for them, and the right to a high-quality education. We will push hard against any leader who sides with the for-profit companies over students. I want my students to know that you are not alone, that your dreams matter, and we will fight for you, and an America that is as good as its ideals.

Thank you.

DR. MCARDLE: Thank you. Our next speaker, David Baime, from the American Association of Community Colleges.

MR. BAIME: Good afternoon. My name is David Baime, and I'm here representing the American Association of Community Colleges, which includes the Community College of Allegheny County. It's
great to see you here.

On behalf of the 1100 community colleges across the country, we thank the administration for undertaking this badly needed review.

We have submitted detailed comments on particular regulations that we believe should be altered or eliminated, and we've endorsed the ACE Task Force report on recalibrating regulation.

I'm not going to focus, today, so much on regulations themselves, but more on the way that they're actually administered by the Department. Regulations did not exist in a vacuum in the CFR. Their actual impact depends to a significant degree on how they're put into practice, which involves sub-regulatory guidance, formal administrative actions, and countless numbers of day to day decisions made by Department staff.

We will remind you, however, that the latest edition of the Student Aid Handbook is almost 1400 pages altogether, and there's a separate handbook for the Clery Act. That's a lot
for colleges to keep track of.

An example of how implementation of a regulation on the books can create additional complications and expense for community colleges, I just mentioned the gainful employment regulation - undoubtedly a very complicated regulation, but the fact the Department issued 108 Dear Colleague letters in the implementation of that meant that it was all the more onerous for implementation. Of course, we have another iteration of that rule coming up.

Another major problem in the regulatory process for our institutions is the unevenness of program reviews. It is well-known that personnel at certain regional offices are much more likely to enforce certain aspects of Title IV regulations than others, and this variation is simply unacceptable, and needs to be changed.

Another issue that our colleges are experiencing are what they believe are inordinate delays in having changes to their program participation agreements approved to add new
programs. In particular, what happens is that students are denied aid while the paperwork languishes. We therefore encourage the Department to provide greater resources for program administration. We're well-aware of the fact that it's not exactly a hot political item, to provide more money for this, but it's nevertheless an essential function of government, and that we ask the Department to request needed resources.

Another issue in the regulatory process for our colleges is the institutional liabilities that colleges incur when they fall out of compliance with Title IV, as is almost inevitably going to happen from time to time.

What we do here, more than we'd like, to have colleges that have made inadvertent mistakes in program administration are then subjected to what they believe are unreasonable and disproportionate and liabilities - and of course, it's students who ultimately pay.

For all the necessary responsibility
the Department has executing the, the public trust
in the form of making sure the programs are
administered with integrity, the impression of
many colleges is the Department views itself
primarily as enforcers rather than partners, and
they hope that that would change.

The bottom line is the community
colleges are not out to game or scam the student
aid system.

We're pleased the Department often
makes representatives available to stakeholders,
both formally and informally, but we also suggest
that the Department provide access for officials
in high positions of responsibility on a periodic
basis, perhaps quarterly, to receive feedback from
institutions about the issues they encounter with
Title IV programs. This will help the Department
better provide quality service, and ensure that the
stakeholders and their concerns are being
registered.

And although it might sound quaint, we
do believe that Department officials should be more
easily available by phone, as they are at present. We all, at times, have to resort to the, to the Help Desk, and we like a person to be there very occasionally. Communications often don't even have phone numbers with them.

Finally, as public institutions, community colleges believe that their oversight should, in some ways, differ from private institutions - particularly private for-profit institutions. This goes well beyond the fact that they're fully backed, that they're backed by the full faith and credit of the state.

It's the oversight that is inherent in their being publicly chartered, and subject to constant scrutiny by the public. The public views community colleges as being very much of their own, perhaps even more than four-year colleges and universities, and generally keeps them on a very short list.

The colleges are far from perfect in all their administration, but when you've got a legislature and publicly appointed boards looking
over your shoulder, it makes for a very different outlook in how you do your business, and what your priorities are. And we believe this should be reflected in federal policy.

Thank you for this opportunity to comment, and we look forward to working with you in this very important effort. Thanks.

DR. McARDLE: Thank you very much. Our next speaker is Edward Coleman.

MR. COLEMAN: It is indeed a privilege to speak with you today in this historic city regarding a subject that is of great importance to me and my family.

My name is Edward Coleman, and I live in Wilmington, North Carolina. I had originally intended to spend the five minutes you have so graciously allotted me to describe, in as much detail as possible, the pain, humiliation, anxiety, and fear my entire family has so closely experienced during the 202 days between February 2 of this year, when my son Ward was arrested and charged with sexual battery while a student at
Davidson College, and the subsequent dismissal of that charge on August 22 due to a lack of evidence.

However, the issue before us today is more important than just my family's plight. Before I address what I believe to be the fundamental and in fact detrimental flaw in the Title IX process as advanced by the prior administration, I want the record to reflect that I recognize sexual assault is real.

Sexual assault is a crime, and those who are guilty of sex offenses should be punished. It is equally true that false allegations of sexual misconduct are real. It is these false allegations, and the indescribable impact they have on the wrongly accused, that has compelled my travel to our nation's capital today.

As we sit here this afternoon, there are terrified young men on college campuses across our country who have been falsely accused of sexual misconduct, that do not have the advantages my son did. They do not have a parent or a family member to support them emotionally, and offer the
unconditional love that is so critical in coping with such a life-altering event.

They do not have the financial resources that my son was afforded to hire competent counsel to ensure that the truth is revealed. I speak for those young men today.

On August 31, 1837, one of America's greatest writers, Ralph Waldo Emerson, delivered the Phi Beta Kappa address at Harvard University. Emerson's speech, the American scholar, serves as a reminder of the worthy goals and ideas that have for so long served as a cornerstone of higher education in the United States.

Emerson stated 180 years ago, and I quote: The office of the scholar is to cheer, to raise, and to guide men by showing them facts amidst appearances.

I submit to this panel, with respect to sexual misconduct cases, our current group of scholars has failed miserably to meet the standards so pointedly espoused by Emerson. An environment has been firmly established on our college campuses
where guilt, as opposed to innocence, is presumed in sexual misconduct cases.

I have witnessed first-hand how students ignore facts - or even worse, do not seek to learn the facts, before carelessly and recklessly acting to ruin the life of a fellow student.

I have seen a college president, within days of having a student arrested on their campus, lead their student body in a rush to judgment by very publicly opining that, and I quote again, if a girl tells you she's been sexually assaulted, believe her.

Disbelieve the accuser. Period, paragraph, end of discussion. Do not seek the facts. Do not use your ability to reason. Simply believe the accuser. That is a truly remarkable position taken by a college president that flies in the face of the very underpinnings of our democracy, and further confirms the presumption of guilt that prevails on college campuses in sexual misconduct cases.
Getting into and paying for college is not easy. Getting into college requires a dream, and the requisite hard work to make the dream a reality. You all know this to be true.

For those that are athletes, they, too, are chasing a dream - the blood, sweat, and tears that are woven into their athletic journey are as real as the pain they suffer when that dream is wrongfully taken from them.

Does this mean that a college student or athlete is somehow innocent of sexual misconduct simply by virtue of prior hard work? Certainly not. However, I submit to this panel that the hard work demands that there be a policy in place that protects and respects the presumption of innocence, that affords those accused in Title IX case an opportunity to retain legal counsel, and that legal counsel be allowed to cross-examine the accuser in front of the triers of fact.

If a college education is to be ended, it should not be at the hands of a panel of students and administrators who are predisposed to believe,
predisposed to believe that the accuser is telling the truth.

We can and must do better.

DR. MCARDLE: Thank you. Our next speaker is Jennifer Coleman.

MS. COLEMAN: Thank you for this opportunity.

My husband is an attorney, and I am a psychologist, and I'm going to talk about my family's experience this last year, going through this.

We live in a small coastal town, and we have been blessed with two children, Ward, who's now 20, and Francis, who's 15. We're a fairly typical American family. We worked very hard to instill in our children the importance of helping others, working hard, being responsible, respecting authority, and always choosing to do the right thing.

Ward played football and baseball in high school, and Francis plays tennis and soccer. When it came time for Ward to go to college, he chose
to pursue baseball, and he was thrilled to receive an offer to play for Davidson College, a prestigious academic school within four hours of our hometown.

Playing at the Division level, I level, fulfilled a childhood dream for him, and I remember his ecstatic excitement when he told me he was admitted. Ward's life has been shaped and blessed by the discipline of sports and the joy of strong friendships. And to that, I am eternally grateful as a mother, because I do not feel that he would have been able to handle the trauma that he experienced over the last nine months without them.

Ward was excited to return to Davidson after Christmas break this past year. He had worked very hard, and believed that he had earned a starting position, fulfilling another dream. His life took a terrible detour on February 2, 2016, when he was charged with sexual battery, and arrested on campus in front of his teammates and coaches while at practice.

He spent a night in jail, terrified and
confused, and our family entered a nightmare of an experience that we are just now waking up from. The survivors on campus saw this situation as a platform for their cause, and I present to you a petition that they developed in the next days, seeking his removal from the baseball team. The last sentence in the position, the petition says, please set an example, and show the Davidson community through his suspension that sexual predators should never be tolerated.

The petition generated 896 signatures, which is just under half of the student body population. As the next months ensued, I watched Ward lose himself in the aftermath of a false accusation. I also watched my husband, daughter, and other family members suffer every day. I woke up every single morning feeling heartbroken, and I continue to feel emotional pain daily.

To be, to be accused of something so shameful and horrific leads to emotional trauma, and we also had to brace ourselves for the fight. We are fortunate that Ward's case was adjudicated...
by the criminal justice system in a fair, reasonable, and impartial manner. As a mother, I watched my child face the adversity that he experienced.

I also witnessed him lose joy, the spring in his step, and confidence. He remained stoic throughout, deciding to remain on campus. He practiced baseball by himself, he spent a lot of time alone in his dorm room, and he focused on his grades and future.

Even though the charge against Ward was dismissed on August 22, 2016, we can't remember what true happiness feels like. We have been told that joy may come with healing and the passing and time, but for now, we are still reeling from the pain of how Ward was treated in this process.

My daughter said it very succinctly: I can't remember anything about my life before this happened to Ward.

Ward stayed at Davidson due to the support from the baseball team and close friends. However, Ward was treated as if he was guilty from
the moment that the news was released on campus. As if the petition was not enough, the Charlotte Observer published an opinion piece written by the President of Davidson College, Carol Quillen, 11 days after his arrest.

Please read Carol Quillen's article that is attached at your convenience. It makes a powerful statement about her views on sexual assault. As you will see, the president believes that we live in a society that believes that there is a possibility of innocence, as opposed to the presumption of innocence. She opines that we should simply take the words of an accuser as fact.

We have been advised that Ward will be treated as if he was guilty by a vast number, even after being exonerated, and we have found this to be true. Only one of the 896 students has bothered to express some form of apology. President Quillen has said nothing to Ward through this process, even though she lives --

Let me just say one more thing. As Title IX policy is implemented, safeguards must be
put in place to ensure that due process is afforded
to the accused, and that the accused not by
subjected to the retaliatory conduct that Ward and
our family have had to endure.

Thank you.

DR. MCARDLE: Thank you. Our next
speaker is the Reverend Dr. Ken Brooker Langston
from the Disciples Center for Public Witness.

REV. DR. BROOKER LANGSTON: Good
afternoon. I'm a minister in the Christian
Church, Disciples of Christ, and I'm here today to
talk about student loans and communities of faith.

As diverse people of faith who share a
vision of the beloved community, part of our shared
mission is to apply faith-based ethical values to
those laws and policies that shape our common life
as a people, and as a nation.

Education is a key value to use in all
our traditions, including the Christian tradition,
where our faith is based largely on the words and
teachings of a teacher named Jesus. And woven into
the very fabric of the faith as given to us by our
teacher is the concept of the forgiveness of debts. It is a mission of our teacher gave us. It is a prayer he taught us. And it's our hope for our own spiritual and physical deliverance.

That is why we must join with other people of faith and conscience to speak out about education, to speak out about debt, and therefore speak out about student loans. So let's take a look at the situation.

The cost of higher education continues to skyrocket. Student loan debt increases exponentially, and default rates also continue to rise. We see that student loan debt disproportionately impacts women and communities of color, including those persons seeking to serve the faith community.

Without such programs as income-based repayment plans and public service loan forgiveness, many faith leaders would not be able to heed the call that they feel God has placed on their lives. However, these programs are only as good as one's ability to access them.
This is the crucial role that student loan servers play, though often they are not playing it very well. Indeed, even with such programs, many faith leaders are struggling under the crippling weight of student loan debt.

Just listen to this. According to the Auburn Theological Seminary, in 1991, more than half of Master divinity students graduated with no educational debt. This increased significantly to 37 percent in 2001, but the rate declined, slowed to 36 percent with no educational debt upon graduation. The average level of debt for those graduates who borrowed grew from $11,043 in 1991 to $25,018 in 2001, and $38,704 in 2011.

The major concern for many is the rapid rise in those who are most indebted. In 2001, 20 percent of graduates borrowed $30,000 or more. This had grown to 35 percent in 2011. Of added concern is more theological students are entering seminary with undergraduate debt. A recent survey of student financial aid conducted by the US Department of Education found that in 2011/2012
academic year, nearly 70 percent of students who graduated with a Bachelor degree incurred debt for their education, and those with loans owed $29,400 on average.

Now, for, this goes other places too. For example, many orders, religious orders, mandate that applicants be debt-free before joining their ranks, leaving many financially incapable of pursuing their spiritual calling. A 2010 survey found that 42 percent of young people who tried to join religious orders were rejected because they were, quote, too poor to take the vow of poverty.

Now, this situation has only worsened, but it's not just about people of faith. We're talking about a $1.4 trillion industry that covers over 44 million, not only people of faith, but students of all kinds.

In closing, I want to turn to - and I'm preaching a little, I know - the Book of Psalms and the Book of Ezekiel - texts shared by two religions, and honored by many others. It is well with the
person that deals generously, and lends well, and conducts all affairs with justice. And the righteous person is the one who does not oppose lending, but returns to debtors their pledge, and does not rob the poor.

All we ask as people of faith is that these faith-based principles be applied to public policies dealing with education, debt, and student loans. And so, we ask that the Department of Education to improve current regulations and increase access to quality educational opportunities, not deregulate a space that is already filled with problems, issues, and bad actors.

To do otherwise would be not only unfair, unwise, and fiscally irresponsible. It would, in our view, be immoral.

Thank you.

DR. MCARDLE: Thank you. Our next speaker is Faith Ferber.

MS. FERBER: Hi, everyone. My name is Faith Ferber, and I'm in my last semester of
undergrad at American University.

I was sexually assaulted my sophomore year of college. The weeks after the assault were the hardest of my college career. I could barely sleep, and struggled to make it through class without panicking. I found myself avoiding campus as much as possible, often skipping classes, and never venturing out at night.

Despite my best efforts, I couldn't shake the overwhelming fear of running into my perpetrator on campus. My education didn't seem worth the risk.

Data show that the vast majority of survivors do not report to their school, and of the group that do report, few opt for a formal investigation process. For example, at Yale University, 88 individuals reported an experience of sexual assault or harassment in the first six months of 2016, and of those 88 people, only five opted for a formal investigation and disciplinary process.

I am one of the few survivors who opted
for a formal investigation. Unfortunately, my experience clearly showed me why survivors hesitate to report, when schools fail to sufficiently protect a student's Title IX rights.

I reported the assault to American University in early April of 2015. The investigation was completed April 9, giving me hope that AU would follow the guidance outlined in the 2011 Dear Colleague letter, and ensure a speedy and fair process.

I was very, very wrong. My conduct case was closed on December 9, exactly eight months after the investigation was completed. All throughout, AU failed to provide me with the procedural protections that are outlined by the Dear Colleague letter and the Clery Act.

My fall semester consisted of meeting after meeting with the Student Conduct Office, constantly waiting for next steps, being told I couldn't have the advisor of my choosing, being forced to sign a confidentiality agreement, and finally, being threatened to have conduct charges
brought against me for speaking out about my frustrations.

Plain and simple, had I known reporting to the school would have led to over 245 days of trying to hold my perpetrator accountable, I wouldn't have reported.

The investigation was demanding. I was expected to tell my story over and over. As my case dragged on, I thought about giving up. I know other survivors who have hit their breaking point, and subsequently terminated an investigation because it was taking too long.

In my case, for 245 days, I worried about seeing my perpetrator on campus, and feared that he would hurt someone else. During that time, my classes had to be put on the back burner, as I was consumed by prepping for the hearing and worrying about the outcome.

Finally, my perpetrator admitted during the hearing that he had assaulted me. He received a year of disciplinary probation, a warning to not assault again. I was devastated.
I had gone through this incredibly long and taxing process simply so I could feel safe at my own school. But I wasn't even allowed that.

As a result of my perpetrator remaining on campus, I stopped participating in extracurricular activities that would have required me to spend more time on campus. A busy, student-filled quad on a sunny spring day no longer made me feel happy.

Instead, I hurried through the crowds, anxious to get home, constantly scanning every face I passed out of fear for running into my perpetrator.

I hope my school will be held accountable for dragging out my Title IX process, and violating my rights as articulated by the Dear Colleague letter and the Clery Act. But with the Department of Education's decision to eliminate the 60 day recommended timeline for investigations, I fear that my experience will become the new norm.

The Department of Education shouldn't
be making it easier for schools to drag their feet on sexual assault. It should restore the 60 day recommended timeline, and hold schools accountable when they violate Title IX's requirements that investigation be prompt and equitable.

Thank you.

DR. MCARDLE: Thank you. Our next speaker is Christopher Perry from Stop Abusive and Violent, I don't have the rest of it here.

(Pause.)


MR. HELLER: Good afternoon, everybody. I'm Neal Heller, and I'm the owner of three cosmetology schools in the state of Florida, and I am here today representing the American Association of Cosmetology Schools, which is an association that represents over 800 schools throughout the United States.

First, I'd like to thank the Department
for revisiting the gainful employment rule and the borrowers defense to repayment rule, as well as financial responsibility rules, through the new negotiated rulemaking. And we look forward to that process taking place, and we certainly look forward to a better product being crafted, coming out of the negotiated rulemaking.

Today, AACS is here to submit our comments with respect to Executive Order 13777 enforcing the regulatory reform agenda. Our comments cover everything from the definition of clock hour, recognized high school diplomas, state authorization, accreditation, and a whole laundry list of other issues, and we respectfully hope that the Department will consider our comments and suggestions as these reforms take shape.

This afternoon, I'd like to especially highlight and address the matter of the new audit guidelines. These guidelines were one of the last parting shots at our schools from the previous administration, and they actually went into effect on July 1.
So they are currently already affecting our schools, and creating some difficulties for our schools, in that these guidelines are just completely overburdening us, they're cumbersome, they, they're impractical, they don't make much sense.

Everything from the new way they want the auditor to calculate 90/10, the way they want auditors to get a certain percentage of student confirmation, which goes way beyond the typical and historical data, which shows that less than 10 percent of students respond to these types of inquiries - and when they do respond, a lot of the responses are inaccurate.

There's just a, a whole host of, of items in the new audit guidelines which are, quite frankly, just completely untenable. The, the auditors themselves have stated they can't complete this process. They can't do an audit under these guidelines. So for both the schools and the independent auditors, there's a tremendous burden.
It's unnecessary duplicating so much information that is already in the system, and now asking to, the school to somehow, you know, over and over, duplicate the same information. It's impractical, and what we are asking the Department to do, and in similar fashion to Title IX and Clery, where you have not gotten rid of the rule, but you have simply put a moratorium on it, you've entered some interim guidance until such time as you can come up with a more practical and thoughtful audit guideline for the future.

We would urge the Department to please take a look at this matter, as it is already in effect, and reverie back to the old guidelines until such time as you have crafted new guidelines which make sense for everybody.

I thank you.

DR. MCARDLE: Thank you very much. And now, Christopher Perry.

MR. PERRY: Good afternoon, everyone. Thank you very much, members of the Regulatory Reform Task Force. I appreciate the time here
today, and your consideration in allowing me the opportunity to submit testimony regarding the, what I believe to be ineffective Title IX campus sexual assault policies from the Department of Education.

As you stated, my name is Christopher Perry. I'm a former criminal defense attorney, and currently the Deputy Executive Director for Stop Abusive and Violent Environments, also known as SAVE. SAVE is a nonpartisan 501(c)(3) organization dedicated to protecting all victims, ensuring due process, and producing reliable outcomes in campus sexual assault cases.

SAVE has been working for the last several years with students, attorneys, lawmakers, and other advocates to develop a campus sexual misconduct policy that affords an equitable process, and protects the interests of both complainants and accused students.

During that time, we have identified serious concerns regarding the harmful effects of the Dear Colleague letter from 2011 on college
campuses. In the six years following the issuance of that letter, complaints by victims to OCR have risen dramatically, and lawsuits by accused students have skyrocketed.

As the Secretary noted in her speech on September the 7th, the system established by the prior administration has failed too many students.

Survivors, victims of a lack of due process, and campus administrators have all told the Secretary recently that the current approach does a disservice to everyone involved. And we actually commend the Department for rescinding that flawed guidance, and looking for new policies which will provide an equitable process.

To improve the response for students, protect the community at large, and hold offenders accountable, SAVE believes that any guidance or regulation should encourage law enforcement involvement in felony-level criminal allegations.

The professional investigators and special prosecutors in the sexual victim unites across the country have received years of extensive
training to better assist victims through the legal process, and offer specific protections unavailable at the college level.

Leaving the investigation process in felony-level offenses to campus personnel, who sometimes lack the requisite resources and experience, has sadly led to erroneous findings for both accusers and the accused.

Just to give you a few examples. At the University of Wisconsin Whitewater, two identified victims filed a Title IX complaint against the school, saying that administrators failed to interview key witnesses in their cases. One student charged, I don't think anybody should be treated the way that I was. It was worse than the assault, a lot worse. I regret with everything, coming forward and saying anything.

Another at Amherst College, one of the more egregious miscarriages to date. The complainant claimed that she was forced to perform sexual acts by the accused. So the college conducted an investigation, and held a
disciplinary hearing before three administrators, and expelled the accused student. But the hearing failed to uncover, the hearing and investigation failed to uncover or include key exculpatory evidence – in this case, text messages – that clearly showed the complaint was actually false. Further, none of the panel members asked the complainant to address the multiple contradictions between her, her testimony and the investigation notes.

And then finally, at Cornell, at a recent meeting to discuss sexual assault proceedings, participants charged that the university Title IX office cared more about avoiding litigation than seeking justice. Respondents had no ability to examine evidence, ask questions of the witnesses or the accuser, be represented by an attorney, and complainants were not kept informed of the investigation's timeline.

To address these problems facing universities and students, SAVE has developed model legislation that we think would help
regulation as well, the Campus Equality, Fairness, and Transparency Act, also known as CEFTA.

The purpose of CEFTA is to consider the legitimate interests of the rights of both the complainant and the accused students to assure fair adjudication processes, and achieve reliable outcomes.

It would allow for equal access to support services, confidential advisors for both parties, active participation by advocates, voluntary dispute resolution, while also encouraging, with the consent of the complainant, referral of felony sexual violence cases to local law enforcement.

I am hopeful that this task force will appreciate the serious need for competent regulations that afford students an effective response to these campus sexual assault issues. As you've heard today from several speakers, the students deserve better.

Thank you very much.

DR. MCARDLE: Thank you very much. Our
next speaker is John McDonald with the American Federation of Teachers.

MR. MCDONALD: Good afternoon. My name is John McDonald. I have served as President of the Henry Ford Community College Federation of Teachers since 1978. I also serve as an AFT National Vice President. Thank you for the opportunity to speak to higher education regulations, and their contributions to student success.

First, one critical role, as you know, of higher education regulations and regulators is to protect students and taxpayers from irresponsible post-secondary proprietary institutions. And higher education regulations benefit, let me repeat, those regulations benefit responsible proprietary institutions as well.

Not only do bad institutions tarnish the proprietary education industry as a whole, these institutions draw student enrollment from the very proprietary institutions that do provide solid training and education.
The irresponsible institutions resist regulations that embody transparency, and that impose consequences on bad practices, all for the sake of property at the taxpayer's expense.

In the absence of regulation, bad institutions diminish the standing of all.

Secondly, I frequently hear from our career education faculty about ill-prepared students who come from the now-defunct ITT, and hear, likewise, about students coming from highly questionable proprietary schools still in operation.

Our faculty see that these students have been ill-served and poorly prepared. They have exhausted perhaps all of their federal financial aid, and now these students must start all over, with diminished or no federal aid.

Most often, these are the most economically vulnerable students we face. Few of, few people in this room have ever had to overcome their socioeconomic challenges to better their lives and their children's lives. Unlike most in
this room, an inconvenience for us is often a crisis for them.

Child care, sick child care, single parent households, car breakdown - assuming they're not relying on unreliable public transportation - work shift changes, heavy workloads, and a myriad of other impediments, plus being conned out of limited federal aid by fraudulent institutions - all of this leads to greater student debt, to stop-outs, to drop-outs, to failing grades, and in turn, delayed completion, and ultimately, even greater cost.

To say that a student who has expected training leading to gainful employment, and who is now in dire need of borrower's protection and relief from fraud - to say that such a student is merely chasing money is tantamount to accusing a theft victim seeking restitution from the thief as a person chasing free money.

In short, the victim becomes the thief; the thief becomes the victim.

Third, most of my college career
programs and faculty have business and advisory boards consisting of business and industry leaders who advise our faculty in the programs about their needs in business and industry, and how to improve our career offerings to better serve their needs.

On several occasions, these private sector business and industrial leaders have told our career faculty, and our program leaders, that the employees they have hired from proprietary institutions are seriously lacking in proper training and education.

They have said that the biggest challenge these face with these students is that these students do not have as much experience, in terms of classroom and laboratory hours, and that their curriculum is not as well-developed.

Again, these are private sector employers who have serious concerns about students coming from irresponsible proprietary institutions.

In conclusion, it's in the interest of all of us, and most certainly in the interest of
responsible proprietary schools, to support regulations that support students, that protect students, that contribute to student success, and that ensure that public tax dollars serve this end.

Thank you again for this opportunity.

DR. MCARDLE: Thank you very much. Our next, our next speaker is Karen Strickland, also from the American Federation of Teachers.

MS. WEINGARTEN: So if it's okay, I'm going to switch positions with Karen. My name is Randi Weingarten, and with, together with Professor McDonald, Professor Ramsey, and Professor Strickland, all of whom are tremendous educators, and activists, and trade unionists in their own right, we are testifying here about how the regulations that are being proposed to be eliminated, how they actually very much help the students we serve, and the institutions that we love.

My name is Randi Weingarten. I have the great honor of representing the 1.7 million members of the AFT, and the AFT is the nation's
largest union of college and university and faculty. And as Professor McDonald was talking about before, and you'll hear this again from Professor Ramsey and Professor Strickland, our members understand and confront firsthand the most pressing issues in higher education, and the, and the issues of the students that we serve, and they often see and feel the impact of regulations from the Department of Education.

So we're here to provide input to the Regulatory Reform Task Force, as described in the Federal Register. We understand the Task Force and this entire administration's approach to accountability. Or I should say that we may understand it. But we completely disagree with it, because it is at odds with the Department of Education's historic mission and purpose as a civil rights agency.

We believe that the hearing, that, that, that, what, what this hearing is doing, with all respect, is that it gets the relationship backwards between quality education and
regulation.

And this is what I mean. The Federal Registry said that the first four responsibilities of the Task Force are to target rules that, a., eliminate jobs and/or inhibit job creation, b., are outdated, unnecessary, or ineffective, c., impose costs that exceed benefits, and d., create a serious inconsistency, or otherwise interfere with regulatory reform initiatives and policies.

So if the Department was really interested in actually doing those four things, they would strongly enforce the gainful employment rule. They would actually make sure the borrower defense rule was enforced. And they would actually revisit the decision to, to get rid of the rules concerning sexual assault.

Why do I say that? Removing quality standards like the gainful employment rule will not create jobs. What it will do is allow for-profit college shareholders to profit from the Federal Student Aid program by withholding information from these students. That is, after all, one of
the reasons we pushed for the rule in the first place.

The stories of fraud and abuse revealed in the previous rulemaking processes are shocking, and they are reinforced by the comments that we have been told, have been made here today.

The only thing that's worse than ripping students off is knowingly denying them an opportunity to relieve their debt, and allowing for-profits a way of continuing to prey on these same students. That was the point of the borrower defense rule, and frankly, it never had a chance to become outdated, because the administration has refused to implement it.

Shamefully, the Department has not processed one single application for a loan discharge, despite the thousands and thousands of, of kids who have been hurt by the Corinthian bankruptcy, and the ITT bankruptcies. It has abandoned tens of thousands of students who just want to get a surer financial footing.

And the last regulation, people will
not be surprised for me to say, or talk about, is, in my judgement, the Department's abandonment of its civil rights mission.

I am very personal about the issue of Title IX, because as a survivor of sexual assault, this issue is deeply personal to me. I am stunned - stunned - to watch the Secretary of Education recite arguments that I've heard for decades of race, of rape deniers who want to roll back the clock, and revive the culture of silence that survivors of campus sexual assault have endured.

Look, one in five undergraduate women is sexually assaulted. Fewer than 10 percent of all sexual assaults are reported because survivors are afraid to come forward. Eighty-nine percent of colleges and universities report no incidents of rape on campus in 2015.

We can't look away. How can we do this in 2017?

So that is why we are here today, and I hope you take our comments, and the comments of the students who have been here beforehand, and
will be here testifying afterward seriously.

    Thank you very, very much.

    DR. MCARDLE: Thank you very much. Our
next speaker is Elizabeth Ramsey for the American
Federation of Teachers.

    MS. RAMSEY: Good afternoon. Good
afternoon. My name is Elizabeth Ramsey, and I am
proud to represent UFMDC, the union of full-time
professors at Miami Dade College.

    With an undergraduate enrollment of
167,000 students, Miami Dade College is the largest
institution of higher learning in the United
States, and we are especially proud of our School
of Nursing at MDC's medical campus. It confers
more Associate in Nursing degrees than any other
college in the nation.

    In 2012, a for-profit college was
founded by Ernesto Perez, who is a high school
dropout with a long criminal record. He opened his
school about two blocks from our homestead campus,
and he named it Dade Medical College.

    The logo had a blue and white color
scheme, and that made it very easy to confuse with Miami Dade College.

It would not be an exaggeration to say that many people believed Dade Medical College's tactics, from their advertising to recruitment to financing, were deceptive in every possible way.

According to some reports, the high pressure sales staff, who were known as academic advisors, promised prospective students that they could finish a degree faster at Dade Medical than at Miami Dade College.

The students weren't required to prove proficiency in English in order to enroll, even though all their classes, and the course materials, were delivered in English. They also did not require them to show proficiency in basic mathematics, even to enroll in programs like nursing, where the ability to accurately calculate dosages for medications is literally a matter of life and death.

Predictably, the pass rates at Dade Medical were abysmal, and few of their graduates
were able to pass the state licensing exams. At some campuses, the pass rate was as low as 13 percent.

So students weren't qualified to take jobs in their chosen field, and in spite of the public investment of over $100 million in Pell Grants and student loans, Dade Medical did nothing to address the critical shortage of qualified medical professionals that is so common in our state, and nationwide.

At Miami Dade College, we worked very hard to contain tuition costs. Fewer than 10 percent of Miami Dade College graduates finish school with any student debt. But at Dade Medical College, the percentage of students taking out student loans was close to 90 percent.

By the time Dade Medical College abruptly closed its doors in 2015, and the founder, Ernesto Perez, pleaded guilty to a campaign finance fraud, students and former students owed an average of $28,769 in student loans.

Mr. Perez was convicted of contributing
illegally to the campaigns of Florida state legislators from both parties. In exchange, they had relaxed academic standards, and halted the enforcement of regulations.

The story of Dade Medical College is just one example of why some federal regulation of higher education, especially around deceptive sales tactics, is necessary.

Some functions of government are best carried out at the state and local level, but regulation of student financial aid dollars is not one of them.

I want to sincerely thank you for considering this case in your review of higher education regulations, and I urge you to retain and enforce the federal gainful employment regulations moving forward.

Thank you.

DR. M'CARDLE: Thank you very much. Our next speaker is Karen Strickland, also from the American Federation of Teachers.

MS. STRICKLAND: Good afternoon, and
thank you for the time to speak to you today.

My name's Karen Strickland, and I was a 20-year faculty member at a community college in Seattle, Washington. Now I have the honor of serving as President of the American Federation of Teachers in Washington State, and I'm here to represent roughly 6,500 education employees, the majority of whom work in higher education.

For decades, women and allies have fought to end sexual assault. In spite of the courageous testimony from many survivors, the legislative advocacy to protect the rights of survivors, increased enforcement of laws against sexual assault, and efforts to raise awareness and educate the public, we continue to live in a country in which it's estimated that 20 percent of women and 6 percent of men will be sexually assaulted while at college.

The effort made to end sexual assault has been monumental and continuous. Some progress has been made, such as laws that prevent blaming the victim, and policies that provide greater
support services for survivors.

Sexual assault is now a subject that we talk about publicly, as opposed to the secrecy that surrounded it decades ago. And yet, the progress made is not proportionate to the effort made to end it, or to the seriousness of the problem.

We continue to see high rates of many forms of sexual assault at schools and colleges, as well as in the workplace. The lives of survivors are at best disrupted, at worst destroyed. Educational careers are interrupted or discontinued, and the effects of the assault typically linger for many years into the future.

Secretary DeVos's proposed rollback of the very regulations that help us to reduce sexual assault is unconscionable and counterproductive. The changes being proposed turn back the clock to a time when victims couldn't acknowledge they'd been assaulted, or seek the help they needed for fear of retaliation, humiliation, and blame.

These rollbacks send a message to perpetrators that they need not take full
responsibility for their behavior, and to victims that speaking out is practically pointless, and puts them at risk of re-victimization.

We figured out years ago that interrogating a victim and blaming her for being assaulted, either implicitly or explicitly, is unjust, reduces the likelihood of pursuing legal redress, and worsens the consequences of the assault. I think we've heard testimony today that speaks to that.

I volunteered on a rape hotline back in the 1980s, and when doing educational workshops, we would often share the analogy of a man in a nice suit, wearing an expensive watch, and with a wallet full of cash being robbed. The big difference between that image and sexual assault, of course, is that this man wouldn't have been questioned as to why he was wearing that nice watch, or those expensive clothes, or for God's sake, why would he carry so much cash?

I want to share with you the goals of a bill passed in Washington State, passed with
bipartisan support. SB-5719 was passed in 2015, with the goals to promote the awareness of campus sexual violence, reduced its occurrence, and enhance student safety. Also, to develop recommendations to improve institutional campus sexual violence policies and procedures, and finally, to develop recommendations for improving collaboration on these issues among institutions of higher ed, and between institutions of higher ed and law enforcement.

The task force set up to figure out how to achieve these goals was made up of college presidents, community members, law enforcement, and more. These are people who understand the issue of sexual assault and higher education.

The 17 recommendations of the task force are all about making greater investments in addressing the issue of sexual assault. Really, just the opposite of what the current plan of the DOE, to do less.

These recommendations reflect the will to finally stop the sexual assault of college
students. The Department of Education should similarly commit itself to stopping the sexual assault of college students. To do that, maintaining the regulations is essential, and shows young people, whether perpetrator or victim, that sexual assault is a serious matter that will not be tolerated.

Thank you.

DR. MCARDLE: Thank you very much. At this time, we will be taking our 10 minute break, and so we will be reconvening at -- what time is it now? Let's call it -- what time does that even say? 2:40, sorry. Can't see in the dark. 2:40, and that -- that will be time that we will reconvene, at 2:40.

(Whereupon, the above-entitled matter went off the record at 2:30 p.m. and resumed at 2:41 p.m.)

DR. McARDLE: Welcome back everybody. We're going to start the afternoon session at this point. Our first speaker is Aaron Shenck from PAPSA.
MR. SHENCK: Good afternoon. Again, my name is Aaron Shenck. I'm with PAPSA. We're a state trade association in Pennsylvania that represents about a hundred different technical colleges and post-secondary trade schools. Within our membership we have both non-profit and for-profit members. I personally visited almost all 100 of these campuses in PA. What I've heard over and over again from many administrators and school leaders is the need for regulatory reform at the federal level.

It's one of their top concerns, and -- and so I'd like to thank the Department for, you know, starting this process and hopefully it results in some good product in the end. We actually surveyed our members going into this basically saying look we know the Department wants some specific ideas on specific sites, specific rules, send them to us. So we got in about a dozen different real substantive ideas for reform.

I'll just quickly read these off. I won't go in detail of each, but timing of campus
crime reports, the audit guides, a common set of consumer information, definition of credit hour, ECAR time lines, verification and financial aid changes, R2T4 simplification, loan limitations, re-certification time lines and changes to the appeal process.

We previously submitted these ideas in more detail to the Department, so I'm not going to go over that. I do have a copy that I want to give you, if I can, of those specific changes as well. So I'm not going to go into those any further. We've submitted online, and also we'll give a hard copy today.

I just want to spend my last, you know, 2, 3 minutes, whatever I've got just doing some general points. One is whatever we do here we think there should be flexibility in the regulations, higher ed and the workforce are changing at a pace that are often too fast for regulators to keep pace. Higher education in the next 5, 10, 25 years will look nothing like it does today.
Some examples of how it's already changing is online learning, digital tools replacing text books, enrollment declines in brick and mortar campuses, more interstate reciprocity across state lines, competency based education models, new and alternative core scheduling models, 18, 20 -- 18 to 22 year old students no longer being the traditional student sometimes, stronger need for skill training and industry certifications and countless other changes that are -- that are already impacting higher ed.

Whatever regulatory structure we adopt to this process I recommend that it be flexible enough to account for other changes that we can't see yet. And if I, you know, give any concrete example that -- a current thing in the news, most people probably aware of some discussion around Western Governors University. They're not one of our members, but been following it and there is a model that is pretty, you know, popular with students, competency-based model. But because, you know, some people argue it doesn't comport to
decades old regulations, it's now under question. So there'll be other examples like that if we don't keep these regulations flexible enough to accommodate for change.

The next general point I'll make is ending the arbitrary application of rules based on tax status and institutions. Too many regulations, particularly several large regulations from previous administration, were applied unequally and have stricter rules for institutions based simply on their tax status. If a rule makes sense and is effective then it should be applied across the board to all sectors of higher ed.

If the rule does not make sense or is ineffective then it should not apply to anybody. The third point I just want to make generally is in our specific comments we provided we didn't touch upon either the gainful employment rule, the borrower's defense rule, or Title IX, and that's simply because we know the Department is engaging in other conversations on those that will get into
those in more detail. So we're going to save our comments for those processes, and so I just want -- but it's not -- the issue is not concern to us. I just feel that the negotiated rule-making is a better place. So that's all I have. Thank you very much.

DR. McARDLE: Thank you. Our next speaker will be Melissa Bryant from the Iraq and Afghanistan Veterans of America.

MS. BRYANT: Thank you. On behalf of Iraq and Afghanistan Veterans of America, or IAVA, and our over 400,000 members I would like to thank you for the opportunity to speak today at this hearing on educational regulatory reform.

My name is Melissa Bryant, and I am the Director of Political and Intergovernmental Affairs at IAVA. I'm also a former Army captain and an Iraq war veteran who has used my Post-9/11 GI Bill benefit to obtain a master's degree from -- in policy from Georgetown University. After 13 years IAVA has become the preferred empowerment organization for post-9/11 veterans.
IAVA's big four policy priorities outlined in our annual policy agenda are to one, fully recognize and improve services for women veterans. Two, battle military and veteran suicide. Three, government reform for better service for our nation's veterans. And, of course, number four, defending veteran's education benefits, particularly what is now referred to as the Forever or Colmery GI Bill.

In defending veteran's education benefits, IAVA believes the most pressing issues discussed here today, are ending the 90/10 loophole, protecting the gainful employment rule, and all other rules that protect students and taxpayers from fraud. And killing the intended VA waiver, that could open the door for VA employees to profit from for-profit colleges.

A key change IAVA continues to support is closing the 90/10 loophole, which rewards poor performing schools that intentionally target veterans for their education benefits. Currently, no more than 90 percent of a for-profit
school's revenue can be generated from federal funds with the intention that they prove their value for the final 10 percent through the free market.

However, a loophole exists where federal GI Bill benefits are counted as private dollars on the 10 percent side and then problems continue to persist. The primary consequences of this loophole are that it incentivizes predatory actors to target veterans for their GI Bill benefits, and it wastes taxpayer money by financially sustaining bad for-profit schools.

The 90/10 loophole could be closed by simply including VA and DOD education benefits in the category of government funds. IAVA has a vested interest in defending the GI Bill from bad policies like the 90/10 loophole, and so we not only have fought for the creation of the Post-9/11 GI Bill in 2008, but also champion upgrades in 2010, 2014, and this year.

Our members remain deeply engaged in the future of this landmark benefit, and often
share their opinions with us. In our most recent member survey 66 percent of respondents have used or are using the GI Bill while another 24 percent intend to. We strongly encourage the Department of Education to work with Congress in removing bad policies like the 90/10 loophole, and further improving the utility of the GI Bill.

Also a strong concern to IAVA is the delayed implementation of the gainful employment rule. This rule implemented in 2015 requires that all career education programs which receive federal student aid prepare students for employment in worthwhile jobs. This rule was established to protect students from the predatory practices of inadequate schools that seek to sell them useless education programs, and burden them with large student debt and little access to the jobs they wanted.

We cite examples of these predatory practices directly in our policy agenda. As we describe in section 2.1, defend the new GI Bill against cuts, fraud, waste, and abuse, in 2015 and
in 2016 the risks associated with for-profit education companies targeting student veterans further materialized with the sudden closures of all Corinthian Colleges and ITT Technical Institute campuses. The closures of these and other for-profit education companies have left thousands veterans unable to complete their degree programs.

While we're glad that veterans will see a remedy to these closures granted under the recent Forever GI Bill expansion, we should fully enforce the gainful employment rule to reduce the odds of situations like this from occurring again.

Regulations like the gainful employment rule encourage reforms at for-profit schools that will work toward preventing these closure situations by distinguishing the worst actors in the for-profit sector from those that are delivering quality education programs. By doing so this policy helps veteran education programs like the GI Bill do what they were meant to do, help veterans transition from the military to a civilian
career and life.

Lastly, while this issue is not directly related to the Department of Education we feel that it is critical to address here that it could -- as it could adversely affect the education of student veterans. The VA has recently decided to apply a waiver that could allow for VA employees to unduly profit from for-profit schools.

This waiver which casts aside a 50-year-old anti-corruption law that has prevented officials who administer the GI Bill from accepting funds from for-profit schools that take taxpayer money. IAVA is greatly concerned that such a waiver would open the door to abuse and conflicts of interest regarding VA employees, and the veterans education programs that they administer and have enormous influence over. Under this sweeping change it would be possible for a VA employee to run or own a for-profit college that takes GI Bill money.

We understand that the justifications the VA in applying this waiver such as the VA lab
technician taking a class at for-profit college, or a VA doctor teaching a class in adjunct -- at a for-profit school, that these are acceptable. However, in its current form this waiver would unduly expand beyond those situations as it applies to all VA employees who receive such wages. This cannot be tolerated.

Thank you, again, for the opportunity to speak at this hearing today, and we look forward to engage with you on these issues.

DR. McARDLE: Thank you. Our next speaker will be Nelson Soto.

MR. SOTO: Good afternoon. My name is Nelson Soto, I'm the Provos and Vice President for Academic Affairs with Union Institute and University. We are a national non-profit accredited private university specializing in adult education since 1964. We are based out of Cincinnati, Ohio with additional physical presence in Vermont, Florida, and California.

Union's proud to say that we perfected the adult delivery model specializing in distance
education programs that combine both online and classroom course work with a high touch faculty attention designed for students regardless of where they live or work.

Our mission is to engage, enlighten, and empower adult students to pursue a lifetime of learning and service and social responsibility. We offer over 51 programs including programs in the Bachelor's completion, or undergraduate programs, and also Master's MPHD and interdisciplinary studies.

I'm here before you because we have some concerns with current regulations as they include focusing on IPEDS. IPEDS is basically consumer protection and we're -- we're looking at how data is used as the career navigators to understand the institution in terms of their different outcomes.

Currently at Union if you would review College Navigator and look at Union you would say this is a horrible school. As you look at the requirements -- IPEDS focuses on first time freshmen -- full time, first time freshmen. At
that rate we're at 6-year award rate of 20 percent, part time 33 percent.

But in -- in actuality let me be clear, at our undergraduate level we're a degree completion institution. So our full time, non-first time student graduation rate is actually at 71 percent. Our part time, non-first time graduation rate is actually at 73 percent. Again, vastly different than what's being purported by IPEDS' data.

The other areas that concern our institution is around the area of accreditation. The core function of accreditation is to ensure the quality of American higher education. We are concerned that accreditation is losing its independence and becoming an agent of federal compliance. We strongly support the independence of higher education accreditation in order to protect the diversity and quality of higher education in the United States.

The third area would be the area of student aid funding. We encourage the continuous
work towards a final budget that funds student aid at the highest levels possible. Federal student aid programs work in concert with each other to help low income students get into, stay in, and complete college. As such send bills to increase Pell Grant maximum to 6,020, provides funding for FSEOG, Federal Work-Study, and TRIO programs. We look forward to be continuous advocates for those programs.

And then finally the area of Deferred Action of Childhood Arrivals. As we know as the Obama administration program is coming to an end many DACA students are understandably nervous about their future in this country. We support any bipartisan legislation action such as the undertaking of Senators Graham and Durbin to protect DACA enrollees and create a fair pathway to citizen -- citizenship for these students.

Thank you.

DR. McARDLE: Thank you very much. Our next speaker is Joseph Shaw from the Council for Education.
MR. SHAW: Hello. My name is Joseph Shaw and I'm presenting a speech on behalf of the Council for Education. The Department should consider new regulations in which the agency information collection activity is a state mandate under the enumeration clause in the federal statutory provisions.

These regulations will provide real time and accurate data in the analysis of risk assessment to a third party insurance companies, which is in line with Executive Order 13777. The statute of limitations under the suspended borrower defense should not either repealed, replaced, or modified. The Council for Education projects an estimated $4.8 billion dollars in unregulated federal subsidies and the admissions of non-residential students by the University of California school system from 2006 to 2016, which is in line with Executive Order 13777 -- excuse me.

A copy of this report is available at auditor.ca.gov. Thank you. And if you have any questions send an email message to
director@cfored.com. Thanks.

DR. McARDLE: Thank you very much. Our next speaker is Alex Morey from the Foundation for Individual Rights in Education.

MS. MOREY: Good afternoon. My name is Alex Morey, and I am an attorney with the Foundation for Individual Rights in Education, or as we are better known FIRE. FIRE is a non-partisan, non-profit organization dedicated to defending core constitutional rights on our nation's university campuses. These rights include freedom of speech and freedom of assembly, legal equality, due process, religious liberty, and sanctity of conscience. The essential qualities of liberty and dignity. Everyday FIRE receives requests for assistance from students and professors all over the country who find themselves victims of administrative censorship or unjust punishment.

I'm here today to thank you for soliciting input on how the Department might revive the rules, regulations, and guidance documents
under its purview. One of the core constitutional rights that FIRE defends is due process. Sexual assault on America's college campuses is a problem that must be addressed, and there is no doubt that Universities are both morally and legally obligated to respond.

Public universities are also bound by the constitution to provide meaningful due process to students accused of sexual assault. These obligations providing effective responses to sexual misconduct and providing due process are sometimes presented as being in conflict with one another. But the truth is that these obligations need not be in tension.

Nevertheless until the recent rescission of the April 4th, 2011 Dear Colleague letter and the accompanying 2014 guidance document the Department of Education's approach to enforcing Title IX compromised the fundamental fairness of campus procedures in the name of addressing campus sexual misconduct. This undermined the credibility of those laudable
efforts.

As we told the White House in 2014, the stakes are extremely high for both student -- the student complainant and the accused student in campus disciplinary proceedings. And it is essential that neither student's ability to receive an education is curtailed unjustly. When a university dismisses an accusation of sexual assault without adequate investigation it has both broken the law, and failed to fulfill its moral duty. Recent headlines indicate that far too many schools have taken this path.

Similarly when a college expels an accused student after a hearing that includes few, if any, meaningful procedural safeguards, it too has failed to fulfill its legal and moral obligations. Far too many schools have taken this path as well. During her recent speech announcing that the Department would be revisiting its approach on this issue, Secretary DeVos stated, every survivor of sexual misconduct must be taken seriously. Every student accused of sexual
misconduct must know that guilt is not pre-determined. And nearly three quarters of Americans agree with the statement according to a recent survey conducted by Rasmussen. The public will not stand for one-sided approaches to this issue any longer.

So today we are urging the Department to stay true to its word. When notice and comment is soon initiated we hope that the Department hears the voices of all who are impacted by this issue. Victims of sexual assault need the Department to remain vigilant in enforcing Title IX. They need the Department to continue to assist colleges and universities in delivering essential resources to these complainants so that they can continue their studies.

At the same time accused students need the Department to promote frameworks for addressing this issue that are fundamentally fair and don't undermine the credibility of the entire system. The warnings of civil libertarians must not go unheeded again, and we urge the Department
to invite experts in other fields, medical professionals, legal professionals, and law enforcement to participate in this process. They, like many others, undoubtedly have many valuable contributions to offer.

We firmly believe that the best policies are crafted when all the voices are given a seat at the table. FIRE is looking forward to participating in the notice and comment process once it has been formally initiated, and we appreciate this opportunity today to share with you our perspective on this critically important issue. Thank you.

DR. McARDLE: Thank you. Next we have Sean Marvin from the Veterans Education Success.

MR. MARVIN: My name is Sean Marvin, I'm the Legal Director at Veterans Education Success, or VES. I am also a veteran myself. VES is a non-profit organization that provides free legal services to veterans who've been defrauded by their school.

Since we were created in 2012 thousands
of veterans have contacted us. They regularly
tell us about aggressive and misleading marketing
techniques that various schools use, and
misrepresentations that schools make about their
education including the cost, whether credits will
transfer, accreditation, program requirements,
and job prospects upon graduation.

Here's just what a few veterans have
told us about their school: they offer a veteran
rate, but when you look at what they actually charge
it's the same as they charge everyone.

Another veteran: I was told by the
recruiters that my credits would transfer and be
recognized. They were complete liars.

Another veteran: they made promises of
reduced tuition costs for veterans, no application
fee, guaranteed job placement program, and more.
I have no more knowledge than I already had and no
job with a mountain of new debt. I struggle every
day to pay my basic bills with no career as they
promised. And now I'm supposed to pay student
loans for an education that I never received.
Another veteran: I was told that my GI Bill benefits would cover the cost of my tuition in full, and that I would have no out-of-pocket expenses. Now, 2 years after graduating I still have $50,000 left on my student loans.

Another veteran: I enrolled under the pretense the degree I eventually earned could stand next to the other state and private institutions. This was not the case.

Another veteran: they lied about the costs. The tuition fees were outrageous. There was no support system. I was promised a military grant that would pay over 25 percent of my tuition and fees and now I'm overwhelmed with loan debt. So many lies.

These veterans didn't go to schools like ITT Tech and Corinthian that have been forced to close. All of these veterans went to schools that still operate today. And when the promises that these schools make don't bear out veterans are often left with no remaining GI Bill, and in many cases student loan debt that they have no ability
Some tell us about how this has led to severe depression, homelessness, and even sometimes suicide attempts. The other day Secretary DeVos said that under the most recent borrower defense regulations all one had to do is raise his or her hand to get free money.

The Secretary should listen to these veterans who didn't raise their hand to be victims of fraud, but who did raise their hand to be -- to serve our country. They deserve better treatment from our colleges and from our government.

The Department should be enforcing and strengthening rules like borrower defense and gainful employment, and cracking down on schools that take billions of dollars in taxpayer money and operate on deception and fraud. Thank you.

DR. McARDLE: Thank you very much. Next we have Lindsey Gardner on behalf of Ivy Tech Community College.

MS. GARDNER: First off, I want to thank you for holding this hearing today. I'm here
representing Ivy Tech Community College of Indiana. Ivy Tech is the nation's largest community college system. My comments today are regarding the Clery Act and the Department's enforcement of the law.

First off, institutes of higher education want to comply with regulations and rules, and we do our very best to do so. However, compliance is difficult as the Clery Act rules are convoluted and contradict each other. This lack of clarity is compounded by the fact that not all program review findings are posted on the Department's web site.

As such, institutes of higher education are left to use only fine activity to determine the Department's interpretations of the rules. No large scale program reviews that have resulted in a complete pass have been posted, which limits our institutes of higher education's access to best practices of successful programs.

Secondly, while the intent of the Clery Act is to inform the campus community and consumers
about campus safety, this intent has been lost in the complex rules and over complicated reports that are not easily consumed by our students or their families.

It's even more difficult for consumers to compare annual security reviews because statutes and criminal -- criminal definitions vary by their jurisdiction. For example, under aged possession of alcohol laws vary from state to state. Compliance varies even more. This can cause some campuses to appear to have a higher rate of underage drinking when really they're just subject to stricter laws or stricter local police enforcement than a comparable campus.

Another item affecting these statistics is that we're required to report certain crimes that occur while students are studying abroad. For example, we operate a culinary arts program that brings our students to Paris for a week. If a robbery occurs in the hotel lobby where we're staying in Paris, we have to report that robbery as a non-campus crime in Indianapolis. How does
reporting a crime in a Paris hotel lobby help inform students and parents about crimes in campuses in Indiana.

Lastly, as a community college system we have 19 self-defined campuses. However, by the Department's definition and counting, which is unique only to the Clery Act, we have nearly 70 campuses. Our students and staff understand the classical definition of a campus, but when the Education Department counts campuses in different ways under different laws this becomes very confusing.

Thank you again for your time. We sincerely hope that you'll take these comments into account, and we look forward to a continued dialogue with the Department regarding these matters.

DR. McARDLE: Thank you. Our next speaker is Gaylynn Burroughs from the Feminist Majority Foundation.

MS. BURROUGHS: Thank you. My name is Gaylynn Burroughs, and I am the Director of Policy and Research at the Feminist Majority Foundation,
a national organization dedicated to women's equality, gender equity in education, and the empowerment of women and girls in all spheres.

We actively work with students and faculty through feminist student groups on hundreds of college campuses, including public and private colleges and universities and community colleges across 45 states and the District of Columbia. These groups are committed to gender equality, civil and human rights, equal access to educational opportunities, and the elimination of gender based violence. Their voices inform these comments.

Today I would like to focus my comments on how the Department of Education can work to help ensure success for women who are pursuing post-secondary education at our nation's colleges and universities. This should be a concern for every office in the Department, but I hope that these comments will be transmitted in particular to Secretary DeVos and to Candice Jackson and Office of Civil Rights.

In short, I have a simple message. The
Department of Education must ensure robust enforcement of Title IX of the Education Amendments of 1972. Which means working to end the epidemic of campus sexual assault by protecting the rights of survivors and holding institutions of higher education accountable for ending the hostile environments that have allowed this epidemic and robbed survivors of sexual assault, the majority of whom but not all of whom are women, the educational opportunities to which they are entitled.

I appreciate that these concerns are not the focus of this current hearing, but unfortunately the Department of Education has not given survivors, their parents, or advocates the opportunity to engage in a public hearing on this topic before it withdrew its April 2011 Dear Colleague letter on sexual violence and the April 2014 Title IX guidance document.

There is also no way for the Department to achieve its mission without addressing the fact that around 1 in 5 women are raped or sexually assaulted in college. The students that we talked
to know that 1 in 5 is not just a statistic, it's their lives, their friends, their classmates. Almost all the students we interact with have been personally affected by this epidemic, or know someone who has.

Sexual violence can have a devastating impact on survivors physically, psychologically, and financially and interferes with their ability to participate in, or benefit from, educational opportunities. The impact of sexual assault goes beyond the survivor as well, affecting the larger campus community.

And when survivors are not listened to, trusted, or believed, when their assailants are allowed to flourish on campus without consequences while they are belittled and degraded it sends not only a disturbing message to the larger community about the worth of women and the LGBT community, but it prevents other survivors from speaking out, leaving many to suffer in silence and inhibiting the ability of these students to achieve their full potential.
Just like OPE, OCR requested written comments from the public on regulations and significant guidance documents like the 2011 and 2014 Title IX guidance that may be appropriate for repeal, replacement, or modification. Hundreds of thousands of people told Secretary DeVos and the Department that they wanted to keep these guidance documents intact.

We expected our comments to be heard and considered. They were not. Instead less than 48 hours after the comment period ended the Department withdrew those very same guidance documents, and issued new interim guidance that revealed a shocking lack of understanding of the needs of student survivors.

Withdrawing these documents was nothing short of reckless. This interim guidance will confuse schools, discourage survivors from coming forward, and make campuses less safe.

Title IX requires fair process for investigation and resolution of complaints for all students. The 2011 and 2014 guidance documents
recognize that if schools fail to provide a fair process to survivors or to accused students they are violating Title IX. For too long survivors had nothing to point to that clarified their rights and provided them with the information they needed to ensure that their civil rights were protected.

The 2011 and 2014 Title IX guidance did just that. By withdrawing these documents and replacing them with interim guidance that is not trauma informed and attempts to weaken Title IX, the Department of Education has pulled the rug out from underneath survivors. Through this action we are left wondering whether Secretary DeVos takes equal access to education for survivors seriously. For many, of course, sexual violence is deadly serious.

By withdrawing the 2011 and 2014 guidance this administration has unfortunately sent the message that women's education is disposable. They can either put up with sexual violence or get out. We call on the Department to reverse course, to listen to survivors, and to hold public hearings on this critical issue. Thanks for
the opportunity.

DR. McARDLE: Thank you very much. Our next speaker is Amelia Collins from UnidosUS. Amelia Collins? Okay, moving on. Our next speaker then will be Annie Clark from End Rape On Campus. Annie Clark, I think? Yes.

MS. CLARK: Good morning -- good afternoon. My name is Annie Clark, and I am the Executive Director of the national non-profit organization End Rape On Campus. And I want to direct my comments specifically towards the Department of Education's Office for Civil Rights and Title IX.

As we just heard and all know, one in five female students will graduate, drop out, transfer, or take their own lives with the title of sexual assault survivor or victim. Those numbers are higher for LGBT students, particularly trans students, and students of color. Yet somehow in the past few weeks this Department has justified rolling back the very protections that protect our most vulnerable students, and many of those voices
are not allowed or present in this room. They were physically shut out of the building earlier when -- where Betsy DeVos made this announcement.

If this department claims to listen to survivors why did repeal of the 2011 Dear Colleague letter happen a mere two days after a public comment period closed, which expressed overwhelming support for this guidance. This Department by their words and actions instead of being committed to fairness, as it purports to do, has silenced survivors, trans students, and women and has given a platform and a megaphone to men, men's rights activists, and perpetrators of violence.

To be clear the 2011 DCL did not invent rules it merely clarified them, and made them accessible to students who needed to understand what their rights were. By rescinding the guidance and referring to guidance nearly 16 years old this Department is quite literally moving us backwards to a time where sexual violence was swept under the rug and students were afraid and many did not know how to report.
Rolling back the transgender guidance earlier this year and then rescinding the 2011 DCL, this Department, and in particular Secretary DeVos, is issuing a very clear leadership signal that somehow student's lives, the most marginalized and vulnerable are somehow worth less than those who are privileged. Moreover, this Department is taking active steps to allow students to choose, excuse me, to allow schools to choose to discriminate by their recent interim guidance.

Allowing schools to use the clear and convincing evidentiary standard flies in the face of what we know about how schools operate in their own conduct procedures, and also civil rights law. Civil rights law already uses the preponderance standard and this is allowing discrimination by creating a special class just for sexual assault. This is active discrimination and it simply does not make sense.

2011, in particular, leveled the playing field and this new guidance tips it. Things like only allowing the accused to appeal and
doing away with recommended -- not -- recommended, 
but not a required time line of 60 days and the 
allegation of cross-examination are clear signs not 
of equal rights, but of special privileges to one 
side.

Many said that the 2011 DCL was unfair, 
but it sort of speaks to that old adage of when you 
are privileged equality can feel like oppression. 
That is exactly what we're seeing here today. 
Again, if some of these false allegations are true, 
if they are true, the Department should be using the 
Dear Colleague letter to help schools understand 
how to implement these best practices rather than 
confusing them. Instead of rolling back guidance 
we should be enforcing what is already in place. 

I now want to read a story from a parent 
who's one of our clients at EROC. "While rape of 
adult men on college campuses is not nearly as 
common as it is for women, the protections in place 
from Title IX and the Cleary Act apply equally to 
men as to women.

My son understood the ramifications of
pressing criminal charges and he decided he was not ready to give up the time and privacy required for criminal investigation, so he decided to file with the university. My heart broke as he told us he saw his assailant on campus the day after, disclosing the assault to us.

He called to say he couldn't focus on his work like he used to, he didn't want to go out to parties, and that he went for a run and broke down crying. Title IX provided protection for him. Fortunately, due to the guidance of the DCL his hearing occurred within the 60-day period that was recommended.

Two months is a lifetime for a 20 year old who has just been sexually assaulted, and is trying to go to class. I don't know what would happen if our son's assault occurred now. I cannot imagine our son being able to have stayed at school much longer without his case being resolved. Perhaps if Ms. DeVos had taken as much time to meet with survivors and parents of survivors as those accused of assault she would have better understood...
what she had done and the potential harm to survivors yet again.

Thank you for hearing me.

DR. McARDLE: Thank you. Next we have Jeff Schrade on behalf of the Paul Mitchell Schools Franchise Association.

MR. SCHRADE: Thank you. My name is Jeff Schrade, and I represent the Paul Mitchell Schools Franchise Association, whose members include small business owners of 112 schools throughout the country. We appreciate the president's executive order which brought us here today, and appreciate this opportunity to submit comments.

We fully support the administration's efforts to review, evaluate, modify and perhaps eliminate regulations pertaining to both gainful employment and borrowers defense to repayment. Several Paul Mitchell School owners have submitted applications to serve on the two committees that are being formed to address those issues. We hope that one or more of the applicants from the Paul Mitchell school system will be granted a full seat at the
table and that others may be chosen as alternates for both committees.

As the current rules for gainful employment were being written, and before the rules were finalized members of our association warned the department that the cosmetology sector was much different from other for-profit schools, largely because our graduates rely on tips and are often paid in cash. As a result we expressed the concern that the data the Government would rely on for gainful employment for cosmetology schools would be inaccurate and unreliable.

In our real world experience that has proven the case, and the courts further supported our position with a federal judge ruling in favor of a group of cosmetology schools. We appreciate the Department's decision to apply that decision to the entire cosmetology school sector. Last year over 9600 future professionals, as they're called by Paul Mitchell, graduated from Paul Mitchell Schools and we ended the year with over 13,000 schools -- excuse me, students enrolled.
Of our graduates 97 percent receive their state licenses each year, and nationwide we have a job placement rate of 77 percent, meaning eight out of every ten graduates has a job upon graduation. Many move up within a few years to start their own cosmetology businesses. While graduates from cosmetology schools are in high demand the unique characteristics of a job involving cash and tips means that many under report their income. That is a fact well-known to the IRS.

In 1994 Congressional Quarterly reported that all cash businesses were under reporting their income by 60 percent. Ten years later in 2014 Dr. Eric Bettinger from Stanford University published a paper that reiterated that data that 60 percent of cash wages are under reported.

In our real world experience and in costly compliance with the gainful employment regulations we learned that our schools that were listed in the failing category had graduates who under reported their income by an average of 65.5
percent. That's a huge margin of error, and that error has in turn cost our franchise owners and corporate partners hundreds of thousands of dollars, great worry, and for some needless heartache as we work to comply with the Department's compliance and appeals process.

When we applied the new accurate income data to our schools in the failing and warning zones nearly all of them moved into the passing category and then were in the failing zone. But even with the relaxed standards the Department has implemented, this burden will only receive a marginal reduction in effort, cost and pain for our school. Simply put, the cost to comply to prove that we were right in the first place is now over $600,000.00.

To further highlight our concerns about gainful employment the Department will soon receive a petition signed by nearly 15,000 people asking for the gainful employment regulations to be fixed. Regarding borrower defense to repayment we believe the whole regulation should be re-worked and are
again grateful that the administration is taking action to address this issue.

As you know, before it was enacted, many, if not all associations that represent post-secondary education, expressed serious concerns and reservations about the new rules. We join them in submitting comments about BDTR that were -- that we feel were completely ignored. We now appreciate the opportunity to make the regulation better for students and schools. Until they are changed the owner's financial requirements under the regulations are enough to put many schools out of business however.

Thank you once again for allowing us to present the comments.

DR. McARDLE: Thank you very much. Our next speaker is Dr. Julianne Malveaux, President Emerita of Bennett College.

MS. MALVEAUX: Thank you. Good afternoon. It's my pleasure to be here this afternoon. I'm Dr. Julianne Malveaux, President Emerita of Bennett College for Woman. We are
America's oldest historically black college for women, and I was president there from 2007 until 2012. During my tenure we received a 10-year reaffirmation from the Southern Association for Colleges and Schools.

We embarked on the first in 28 years improvement in facilities, building four building in 5 years which as many of you may know is unprecedented in the HBCU community. And we also enjoyed an enrollment high in 2009. I am an economist by training and academic higher education administrator and student advocate, and I'm here to encourage the department to improve the higher education regulatory schemes, not to dismantle them.

I'm deeply concerned, as I think we all are, about the increasing unaffordability of college, the rising student debt in this country, which now exceeds $1.2 trillion dollars, the current prevalence -- prevalence of predatory for-profit institutions that too often target communities of color. African American Students
disproportionately attend these for-profit colleges, borrow more for higher education, and have lower graduation rates, which makes them more likely to be victims of harm from for-profit institutions.

I'm even more concerned that the Department is spreading -- spending this crucial moment, this crucial moment in time discussing ways to further unleash bad actors rather than focusing on affordability and access and strengthening institutions that have consistently proven their ability to educate students of color for less HBCUs.

In order to protect students, particularly students of color, and to provide actual opportunity the Department should focus on enacting and implementing strong, smart regulations like the gainful employment rule, which is critical, that promote strong outcomes for students and to incur -- ensure strong results for taxpayers.

Rather than focusing on regulation the Department should, number one, focus on increasing
the size of Pell grants. When Pell grants were started they covered about half, actually more, of tuition. Now it covers less than a third of the cost of attendance. So we'd like to see more Pell grants. We'd like to see better regulation of loan services. Recent events have shown that many borrowers are not receiving even basic servicing help leading to default and delinquencies that can impact their financial security for years to come.

We'd like better regulations for for-profit organizations, Corinthian, ITT Tech, DeVry, and the list goes on. We've seen some of these folks go out of business, and we've seen students of color pay the price. They've been far more concerned with profits at the expense of students, and few of them have the actual student services that traditional colleges have.

What better regulation of accreditors. Too often these agencies are complicit in allowing bad schools to stay open to prey on more students. We need more support for HBCU's MSIs and community college. The Department should work with
congressional leaders, state legislators, and other stakeholders to increase funding for these institutions and create programs that allow them to serve more students. I would like to say that at this moment in time this is especially critical.

Last month the Department of -- the Department of Census, Bureau of Census released data on income. We see that the average white household has an income of about $64,000.00 compared to an average income for African Americans of about $39,000.00. That gap is growing, and it's tragic. With more education of African American people we're still seeing discrimination in the labor force, which leads to these income differences.

And just this week, the Federal Reserve Board released income -- income, excuse me, data on wealth in our country. And, again, we see great disparities between the overall population and the African American population. One of the striking disparities is that 73 percent of all whites own their homes compared to 45 percent of all African
Americans.

Part of the reason that many African Americans do not own homes, especially younger African Americans, is because they're so burdened with student debt that they're not able to move into the housing market already. And so we would employ the Department of Education to pay attention to what's happening to young black and brown people who basically -- many are first generation.

I could tell you stories that would make some of you cry about how hard it is for these young people to finish, and how these loans -- these loans that they're taking out can cripple them. I had a student, as an example, that took 8 years to graduate. So she didn't show up too well in my statistics. But guess why it took her 8 years to graduate, because she'd work every fall and come back to school every spring because she was -- she did not want to have large amounts of debt. She still graduated with about $25,000.00 worth of debt, but she came back to D.C. every fall to work so that she could come to school in the spring. That's just one
of the stories I could tell you. There's so many more.

    Again, I encourage the Department to utilize taxpayer resources more prudently and seek ways to create opportunity and access for students and not for predatory institutions. I thank you very much for your time and attention.

    DR. McARDLE: Thank you very much.

    We're now going to have Amelia Collins from UnidosUS.

    MS. COLLINS: Good afternoon. My name is Amelia Collins, and I'm a policy analyst at UnidosUS, formerly known as the National Council of La Raza. UnidosUS is the nation's largest Hispanic Civil Rights organization, and we have been working to improve opportunities for Hispanics for nearly 50 years. We rely on a network of nearly 300 community based organizations across the country to inform our policy and advocacy work.

    This uniquely positions us to bring an on the ground perspective to both federal and state policy discussions. Today I will focus my remarks
on the gainful employment and borrower defense repayment regulations.

The Latino population is the youngest, and one of the fastest growing in the country. Since 1999 the Hispanic high school dropout rate has fallen. From 16 percent to 10 percent, and the rate of Hispanic high school graduates enrolling in college has reached parity with whites. As such, record numbers of Latino students are enrolling in post-secondary education.

The economy of the future depends on equitable access for all students to earn affordable high quality credential or degree leading to a good paying job and opportunities to build wealth. As a civil rights organization UnidosUS has long recognized the importance of equitable educational opportunity as a central pillar in achieving the full realization of rights for all Americans.

In pursuit of this goal, Congress passed the Higher Education Act of 1965, a civil rights law that is just as important today as it was then. Any
regulatory agenda implementing the HEA must keep equity as its North Star ensuring all students regardless of race, ethnicity, origin, or socioeconomic class of an opportunity to pursue higher education.

While many post-secondary institutions are serving students well others are not. Specifically, some for-profit institutions have exploited both students and the federal government's investment in higher education. Many make false promises to students, and leave them with a low quality credential, few job prospects, and a disproportionately high debt burden.

Black and Latino students are often targeted by these programs where they represent over 40 percent of all students enrolled, despite being 30 percent of the overall student population. Latino students are particularly vulnerable to predatory practices. As many are first generation college students navigating the higher education space largely on their own.

The magnitude of this problem prompted
the Department of Education to intervene and provide students with critical protections including the gainful employment and borrower defense repayment rules. Together these protections help ensure institutions offer quality credentials while providing students with a path to loan discharge if their institution defrauds them.

First, gainful employment. These regulations implement a provision of the Higher Education Act that allows students in programs leading to gainful employment in a recognized occupation to use federal financial aid. UnidosUS along with several other civil rights organizations authored a brief describing how students of color were more likely to be enrolled in high cost, low quality programs, and calling for strong regulation.

Data show that students at for-profit institutions are less likely to graduate, more likely to default on their student loans, and must borrow more to pay high tuition costs. The final rule helps protect students from
aggressive and deceptive recruiting, false claims, and predatory lending practices.

The gainful employment regulation has already been through a stringent and thorough review process. Rather than re-opening critical regulations, the Department should focus on implementation. Moreover Department officials should consider additional action to protect borrowers including limiting enrollment at poorly performing institutions until they improve, and ensuring information provided to students is transparent and accurately reflects career outcomes.

The second regulation we are urging the Department to maintain and implement is the recently finalized borrower defense to repayment rule. Borrowers defrauded by their post-secondary institution have a legal right not to repay their loans, called the defense to repayment. These regulations were updated in November of 2016 establishing a new federal standard and process for determining when borrowers had a defense to
repayment, and requiring schools to explicitly inform students of their options if schools close.

We are concerned the Department has indefinitely delayed the rule from going into effect, and has signaled a reopening of the rule making process. Further, we are alarmed at reports that the Department has not granted a single borrower defense since the beginning of the current administration.

Over 10,000 Latino students were enrolled at Corinthian colleges when they were forced to close. After the Department uncovered fraud, including overstated placement rates and the use of deceptive marketing. The Department has determined these students are eligible for loan discharge and they should expeditiously grant complete relief. Discharging debt held by these students is essential to help ensure they avoid delinquency and default.

In establishing its regulatory reform agenda, the Department should fully implement regulations designed to protect students from fraud.
and abuse, and to ensure students have a post-secondary path that leads to gainful employment. Anything less would betray the intent of Congress and the Higher Education Act, and would constitute an abdication of the Department's responsibility to advance equity in education. Thank you.

DR. McARDLE: Thank you. Our next speaker is Charlotte Hancock from Higher Ed, Not Debt. Hi.

MS. HANCOCK: Good afternoon. Thank you for this opportunity to speak with you today. My name is Charlotte Hancock, and I am the program director of the Higher Ed, Not Debt campaign. The campaign is a multi-year, multi-organization effort housed within Generation Progress, a non-profit non-partisan organization.

Higher Ed, Not Debt advocates on behalf of student loan borrowers based on the premise that high quality -- that a high quality higher education is a public good that should be affordable and accessible to all. We are concerned about the
purpose of rolling back safeguards, and so are the
students and borrowers that we work with.

Over the past several weeks nearly a
thousand of the individuals Higher Ed, Not Debt
works with have voiced concerns. They are worried.
They say they think that Secretary DeVos believes
she can sneak one past Americans who care about
affordable and high quality higher education.
They say she wants to repeal or weaken additional
regulations meant to protect college students and
taxpayers. They say she thinks these regulations
are too wonky for the average American to tune into
and have time for. But these nearly 1,000
individuals vehemently oppose cutting regulations
we're here to talk about today.

Eliminating these important regs would
be a huge win for special interest including large,
corporate and -- large, corporate predatory and
for-profit colleges, and would put financial
interest ahead of the good of students. We and the
nearly 1,000 students who submitted comments with
our help strongly oppose the elimination or
weakening of the Department of Education
guidelines meant to protect students and
taxpayers.

Specifically, we oppose any alteration
of the following regulations which hold corporate
interests accountable, and stop taxpayer money from
being used to support education programs that leave
students mired in debt with no good career
prospects. First, we ask that the Department of
Education not funnel more taxpayer dollars to
predatory or for profit programs by gutting the
gainful employment rule.

Gainful employment protects students
and taxpayers by not allowing federal financial aid
to go to programs where graduates earn too little
compared to their debt. This rule allows good
programs to persist while getting rid of those that
do a poor job with students. If this regulation
goes away career training programs in schools with
profit as their bottom line will go back to ripping
off students through low quality options.

Second, we ask that the Department of
Education not open the flood gates for tuition dollars to go to college recruiters rather than academic resources by weakening the incentive compensation rule. This rule prohibits colleges from paying bonuses, or other commissions to recruiters in exchange for getting students to enroll. For-profit and predatory colleges make more money as they enroll more students. This regulation stops them from using tactics like the now well-known pain funnels to enroll students regardless of their qualifications.

And third, we ask that the Department of Education not allow banks to take higher fees from college students' earned financial aid dollars by deepening the cash management rule. Financial aid is for students to pay for college and necessary expenses, not to get nickel and dimed by banks. These regulations protect students from having their financial aid refunds being eaten away by fees, and ensures students get easy access to their money.

We urge the Department to reconsider any
plans to change these regulations that protect millions of hardworking students and taxpayers. We are watching and hoping for the right thing to be done, and so are students and borrowers and they will suffer the consequences if this Department puts big businesses ahead of them. Thank you very much for your time.

DR. McARDLE: Thank you. Next we have Reverend Dr. Leslie Copeland-Tune from the Ecumenical Poverty Initiative. Oh she's parking. Okay, we'll give our last speaker a few minutes and -- is there anyone who has -- we have a little bit of time after our next speaker comes. Is there anyone who hasn't spoken who wants to? We'll give our last speaker a couple of minutes. You can talk amongst yourselves.

(Pause.)

Hi. Come on up. The Reverend Dr. Leslie Copeland-Tune from the Ecumenical Poverty Initiative. Hi.

MS. COPELAND-TUNE: Good afternoon. Glad to be here today. As I was just introduced,
my name is Reverend Dr. Leslie Copeland-Tune, and I serve as the director of the Ecumenical Poverty Initiative, which is an anti-poverty ministry led by an active partnership of ecumenical leaders from diverse denominational, geographic, racial and ethnic backgrounds.

EPI seeks to add a prophetic voice and collective action to the fight to end poverty in our nation. We are currently focusing our work on ending predatory lending practices, advocating for fair and just wages for low income workers, mobilizing partners to advocate for national, state and local policies that help to end poverty.

We've been doing a lot of work to protect safety net programs. We examine ways to identify and address the link between economic and racial justice, and increasingly we're exploring ways to address disparities in education and the ways in which that can cause people to continue to live in a cycle of poverty.

In addition, EPI has a Pastors Ending Poverty initiative which galvanizes pastors to end...
the work -- end poverty nationwide. I'm here today to speak about the gainful employment rule and for-profit colleges. We take the education of students and the protection of taxpayer investment in that education very seriously. My own family history personally makes me extremely committed to this issue.

My grandparents like many others from African American heritage were sharecroppers in South Carolina barely finishing middle school, but working so that each of their children, each of their nine children, I should mention that, would be able to go to college or a trade school. Today as their granddaughter I stand here with four degrees, and recognize that I am the answer to the pray -- to the prayers of my grandparents. But I am not alone. There are millions of people whose family background is similar to mine. Children who did not grow up with a silver spoon in their mouths, but who have gifts and talent and want to use those gifts and talent, not just for their families, but to better our communities and our nation.
As college becomes increasingly less affordable we have witnessed a rise in student loan debt, which can be crippling to students once they graduate. This coupled with the unscrupulous practices often found in the for-profit education industry makes it even more difficult for people to get out of poverty and build a better life for themselves.

We have not only seen how this rise disproportionately hurts the African American community. From our students to historically black colleges and universities, which have consistently and effectively educated black students for more than a century.

In order to protect students, particularly students of color the Department of Education should enact and implement strong regulations like the gainful employment rule that are clear, consistent and that provide necessary relief for students who have been defrauded by these harmful institutions and practices. Any new rules should take into account the disproportionate
impact of for-profits on students and communities of color as well as the havoc these institutions wreak on our economy as a whole.

Consider what we already know. African American students disproportionately attend for-profit colleges, borrow more and have lower graduation rates, which makes them more likely to be victims of harm for for-profit institutions. 28 percent of African American students enrolled in a four-year institution attend a for-profit college compared with just 10 percent of white students. This disparity is present for 2-year, and less than 2-year colleges as well. Also nearly 80 percent of African Americans do not complete for-profit programs.

The cost of for-profit schools are much greater than that of other institutions, so a substantially greater share of students borrow to pay for their education. The Center for Responsible Lending found that in 2011 through 2012 academic year 35 percent of African American students at for-profit colleges, 4-year
institutions took out $8,900.00 or more in federal loans compared to just 28 percent at private non-profit institutions, and 18 percent at public institutions.

For-profit college students are more likely to experience worse educational outcomes and a higher incident of default. Thank you.

MS. SMITH: Sorry.

MS. COPELAND-TUNE: That's okay.

MS. SMITH: Thank you. Does anyone --

Oh, I'm sorry, go ahead.

MS. COPELAND-TUNE: I was going to say and keep the gainful employment rule. Thank you.

MS. SMITH: So that concludes all the speakers who have signed up today. We literally have 4 minutes left to our prescribed time frame. So I just want to thank everybody for attending, and for being respectful of each other's time and putting up with me saying time, time. So thank you all for coming. If you have not -- if you have any questions about this process you can let us know. We'll be here for a few minutes, but have a safe
drive home, and, again, thank you for your time and attention we appreciate it.

(Whereupon, the above-entitled matter went off the record at 3:56 p.m.)