

U.S. DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

PUBLIC REGIONAL HEARING ON
NEGOTIATED RULEMAKING

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

Community College of Philadelphia
Center for Business & Industry
C2-28 Lecture Room
18th & Callowhill Streets
Philadelphia, PA

P R O C E E D I N G S

1

2

3 **MR. MADZELAN:** Good morning, everyone. My
4 name is Dan Madzelan. I am the currently Acting
5 Assistant Secretary for Postsecondary Education in
6 the Department of Education. I want to welcome
7 everyone here today for this hearing where we are
8 here to get your ideas around this next round of
9 Negotiated Rulemaking.

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

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

So, today we have on our end a very simple
protocol: you talk; we listen. And this is the
start of our Negotiated Rulemaking process. I
recognize a number of people in the audience today,
so I know you are as familiar with this as we are
at this end of the room. But basically we have a
statutory requirement that when we regulate in the
HEA Title IV Student Aid Programs, that we engage
in a process of Negotiated Rulemaking to develop

1 the proposed rule. Basically, that's where we sit
2 at a table with representatives of parties affected
3 by our regulations--affected by and interested in
4 our regulations.

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

15 Now, backing up just slightly, we are
16 still in the midst or coming down to the middle of,
17 I guess, the prior rulemaking--Negotiated
18 Rulemaking session. We started this past winter
19 with five teams implementing provisions of the
20 Higher Education Opportunity Act--last summer's
21 reauthorization of the Higher Education Act. And
22 so we went through a process very similar to this
23 with public hearings and then our negotiated
24 sessions which we finished up a month or two ago.

1 And so now we are in the process of getting our
2 Notice of Proposed Rulemaking published, five of
3 those, which I think we are pretty much on schedule
4 to have those accomplished by around July 1st.
5 That might slip slightly, but again, we have to
6 have final rules in place by November 1st.

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

22 Of course, a big change in Washington over
23 the fall and winter, so with a new team in place,
24 with addition to Column B, we got a Column C. And

1 so some additional items that we've identified back
2 at the Department and again as we've published in
3 the notice.

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

20 A couple of others around state
21 authorization and of institutions as part of the
22 eligibility for Title IV programs. And also,
23 another item in that area within the definition,
24 you know, gainful employment that, you know,

1 eligible institutions need to provide their
2 students for gainful employment.

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

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

19 And, lastly, you know, the definition of a
20 high school diploma for purposes of our student aid
21 programs. Now, you know, to be eligible--a student
22 to be eligible for aid programs has to be a high
23 school graduate or possess the recognized
24 equivalent, generally GED. Not only have we seen,

1 obviously, online education expand in recent years
2 in the postsecondary area, evidently it's expanding
3 a bit in the secondary area as well. So, we've had
4 some questions around, you know, just exactly what
5 is a high school diploma for purposes of a student
6 establishing eligibility for Title IV programs.

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

23 Before I go on any farther I want to
24 welcome Glenn Cummings, also from the Department,

1 our Deputy Assistant Secretary in our Office of
2 Vocational and Adult Education.

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

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

13 Glenn?

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

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

23 So, at that point, we're looking forward
24 to learning ourselves and to making sure that we're

1 clear about where many of you stand. And we're
2 hoping for a very productive couple of days.

3 Thank you.

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

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

16 **MR. MADZELAN:** Okay, with that we'll
17 begin. Now, you have signed up to speak in 10-
18 minute intervals. It has generally been our
19 experience that you don't take your full 10
20 minutes, and also you don't see any, you know, red,
21 green, and yellow lights up here. It's not that
22 we're going to time you. But, again, you know,
23 please limit your remarks to right around 10
24 minutes.

1 And as some of you don't use your full
2 allotted time, then we'll just kind of speed up the
3 morning a little bit. We'll just continue to march
4 through our list of speakers. And we are scheduled
5 for a 10-minute break right around 10:30. So,
6 again, we'll see. When we get close to 10:30 we'll
7 see where we are and maybe take a break a little
8 bit earlier or a little bit later.

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

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

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

21 I'm providing written testimony. I'm not
22 going to read it all. I'm just going to try to
23 summarize a few points. But what I would like to
24 do--when I think about the regulatory environment

1 at the federal level, I'm aware that it has a very
2 direct impact on students and, in this case,
3 students at my own institution. So, I'll preface
4 my remarks with just a couple of statements about
5 students because I think that's important to
6 understand in terms of a couple of the suggestions
7 I'd like to make.

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

19 But this same report also depicted
20 Philadelphia as--and I quote again--"a city on the
21 decline." We have a public school system taken
22 over by the state; a ranking atop the nation's 10
23 largest cities in the percentage of people living
24 in poverty; a labor force participation rate that

1 is 96th out of the nation's 100 largest cities; a
2 college attainment rate that places Philadelphia
3 92nd among the 100 largest cities.

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

15 About two-thirds of our students here are
16 women. The same proportion attend part-time, and
17 the overwhelming majority of our students are
18 adults, not the traditional 18- to 20-year-old
19 college student. We are the largest single point
20 of entry into higher education anywhere in the
21 Commonwealth of Pennsylvania for students of color.
22 Seventy percent of our full-time degree-seeking
23 students and approximately 60 percent of all
24 degree-seeking students receive some type of

1 financial aid. And the last characteristic I want
2 to cite: many of our students are the first in
3 their families to pursue a postsecondary education.

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

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

22 Where the college policy, or reality
23 perhaps, and federal guidance on the issue of
24 satisfactory academic progress depart is in

1 counting withdrawals. Title IV Rules do not
2 currently recognize academic or time amnesty in
3 evaluating a student's eligibility for financial
4 aid. Every class a student attempts is counted
5 towards the maximum timeframe of 150 percent of the
6 college's published length of time needed to
7 complete the credits to graduate from the program
8 of study. Even periods in which a student did not
9 receive Title IV funds must be counted.

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

21 And this is particularly relevant to my
22 institution because, as I have indicated before, of
23 the adult nature of our students: more than half
24 of our students are adults age 25 or older. Our

1 College recognizes that sometimes students are
2 unsuccessful academically for a variety of reasons.
3 In later years, despite current high academic
4 achievement, the students may discover that a
5 previous low grade point average is a barrier to
6 entry into occupational fields or further academic
7 progress.

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

22 Under our academic and time amnesty
23 policy, the College's Financial Aid Office reviews
24 students' academic progress after each term. A

1 student deemed not to be making satisfactory
2 academic progress is placed on financial aid
3 probation, and students who do not meet the
4 probationary conditions described in our academic
5 standards and progress policy become ineligible for
6 financial aid.

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

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

23 Without the year-round Pell provision some
24 students, even full-time students, would find

1 themselves in danger of using up their Pell Grants
2 in the fall and spring semesters and would be
3 ineligible for Pell Grants in the summer. We view
4 that as very positive. And I can't take--miss the
5 opportunity in any venue to say on the general
6 financial aid process it's no secret that the
7 current process can be cumbersome and difficult to
8 understand for many students.

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

24 But we do support simplifying the FAFSA

1 application, thereby making the financial aid
2 process more understandable for students and less
3 cumbersome for financial aid managers.

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

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

12 **MR. MADZELAN:** Thank you very much.

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

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

24 Our members view themselves as

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

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

23 All of this is to explain that our
24 interest in this matter, frankly, transcends

1 financial aid. And that because we have our own
2 reasons for seeking systemic improvements to
3 program integrity, we believe our members would be
4 very reliable and well-informed partners to assist
5 the Department in improving the integrity of Title
6 IV programs.

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

1 what we ask it to do today.

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

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

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

21 Now, this has insidious consequences for
22 both students and the taxpayers. The logic of
23 federal financial aid works for the majority of
24 students who actually gain some benefits. For

1 those who don't, they are certainly left far worse
2 off than they would have been if they had never
3 gained "access" to the educations they received.

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

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

21 I'm going to zip through the topics.
22 Incentive compensation. Both my association and
23 the other associations that represents admissions,
24 NACCAC, vociferously objected to the 12 loopholes

1 that the Bush Administration decided to fabricate
2 out of whole cloth in the plain statutory language
3 that bans incentive comp.

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

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

19 An issue that you have not put on the list
20 that I hope you do is the question of
21 accreditation. Accreditation works fabulously if
22 you are actually interested in voluntary self-
23 improvement. And we have no quarrel with people
24 accrediting each other, working together to improve

1 through a system of peer review. The problem is
2 when it comes to gate-keeping. Accreditation is
3 increasingly looking feeble as organizations with
4 minimal resources--resources that are a fraction of
5 AACRAO's resources--purport to be in the business
6 of policing and overseeing multi-billion dollar
7 entities that are entirely incalculable in terms
8 of what they can throw at the accreditor.

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

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

24 Definition of high school diploma. You

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

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

24 We think you need to look at the extent to

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

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

13 Another important topic not on your list
14 which we would like you to consider is saturation
15 advertising and deceptive marketing practices. We
16 think there is a problem here in terms of the
17 dollar amounts involved. By our estimates, the top
18 9 Title IV advertisers spent \$1.75 billion--with a
19 B--for the last year, for which complete data are
20 available. We think they're on track to spend \$2
21 billion in 2009. This is just the top nine
22 advertisers.

23 Nothing wrong with advertising Snuggies if
24 you're doing it with your own money. The problem

1 is here we have better than 80 percent dependency
2 on Title IV, which we believe will pay \$1.5 billion
3 for advertising by the top 9 advertisers alone.

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

17 We have ideas on definitions for credit
18 hour and for satisfactory academic progress, which
19 is after all what our members do. We think there
20 are things you could do that are non-intrusive on
21 academic policy, but that protect the taxpayers and
22 the students. We do realize that much of the
23 significant changes that could improve the system
24 for the better will require statutory changes and

1 we're working with committees of jurisdiction in
2 Congress, but I think the lists that are rattled
3 off is a list that the Department could actually
4 work on through a regulatory process.

5 I appreciate the opportunity. Thank you.

6 **MR. MADZELAN:** Thank you very much.

7 Bernard McCree.

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

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

20 A couple of things. One, we want to
21 acknowledge the fact that we are very pleased to
22 know that AES/PHEAA was selected as one of the
23 servicers moving forward. And a couple of things
24 we want to make sure that the Department is aware

1 of concerning their involvement, especially here in
2 Pennsylvania. As a state guarantee agency with
3 public employees, they are fulfilling some
4 important roles which include the administration of
5 student loans, the loan servicing, and loan
6 origination, and other services which include
7 financial literacy, loan collections, default loan
8 collections, and many other services that help
9 students and families considering college.

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

20 PHEAA, in essence, would preserve the jobs
21 of state employees, not only here in the
22 Commonwealth, but those jobs that are attributed to
23 the servicing of student loans. They will also
24 preserve quality financial aid-related services for

1 students, families, and schools, and save states
2 and schools the considerable cost associated with
3 replacing current services.

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

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

20 As an addendum to all of this information,
21 as a state financial aid association we are very
22 strongly--very strongly--opposed to a single option
23 for our students in terms of borrowing. Choice is
24 a factor; this is the American way. And I know the

1 CBO has conducted their savings analysis, but they
2 did not include in that analysis implementation,
3 the cost of human capital to provide extended
4 customer service to our students, and also for the
5 resolution of technical issues that will arise when
6 you seek to convert 4,000 schools into a system
7 that has not provided sufficient technical
8 resources already. And we want the Department--
9 we're not opposed to a single entity, but we are
10 saying do not rush to judgment, especially in the
11 time allotment that it is being sought to be
12 handled in.

13 We look at some of the precedents that
14 have been already not fully successful. That was
15 the GAPS program; transferring the paper FAFSA to
16 electronic, even though that has happened. But in
17 doing so we talked about simplification--excuse me
18 --and we go from 6 to 8 to 13 questions on the
19 dependency status, which has made it very difficult
20 for us, as my prior colleague said, procedural-wise
21 to do some of these things. ACG SMART was not a
22 smooth transition for us. And then the Direct Loan
23 Program as it is today was not the Direct Loan
24 Program that it was when it was first initiated.

1 So, we do urge the Department to proceed
2 with caution as you are making decisions for making
3 the changes that are going to happen as provided
4 through the HEA for financial aid.

5 Thank you.

6 **MR. MADZELAN:** Thank you.

7 Jackie Curtis, Herzing University.

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

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

23 The second recommendation we have is that
24 schools be allowed to offer incentive to students

1 who contribute cash towards their educational
2 expenses and who limit their loan borrowing while
3 in school. When we discussed this option with an
4 industry expert, we were advised against such an
5 effort because its general principle went against
6 the regulation that denied schools the right to
7 limit student borrowing. This type of incentive
8 would not only reward student financial
9 responsibility, but it would also mean lower loan
10 debt to students.

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

19 Furthermore, we would like to see schools
20 have the ability to offer incentives, like
21 scholarships, for students who are financially
22 responsible and who agree and commit to limiting
23 their student borrowing and contributing money
24 towards their educational expenses while in school.

1 Thank you for your time.

2 **MR. MADZELAN:** Thank you.

3 Mike Woods, Embassy of New Zealand.

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

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

15 The eighth provider is a private training
16 establishment, as we call them in New Zealand, a
17 private school, that specializes in chiropractory.
18 Our schools are very well regarded. Five are in
19 the top Times Higher Education list for
20 international schools; 4 in the top 500 for the
21 Shanghai listing. So we have very, very high
22 quality schools. So, inevitably, we attract a few
23 American students to come down and study in our
24 country.

1 And our schools have been members of
2 Federal Student Aid for a number of years and have
3 seen various iterations of legislation coming from
4 Congress, but we have ongoing concerns around the
5 compliance costs. We very much appreciate the
6 generosity of the taxpayers of America to allow
7 American students to study abroad. It gives them
8 exposure to other languages, other cultures. These
9 students are in full degrees, so they're typically
10 doing two years at least if they're doing a
11 master's program; three years if they're doing a
12 bachelor's or Ph.D. program as minimum
13 requirements.

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

21 However, there are concerns, and it's this
22 balancing of compliance costs with protections for
23 American students. We do understand the necessity
24 to regulate the learning industry as we do

1 ourselves in New Zealand as a matter of government
2 policy.

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

14 So, to begin with, compliance audits and
15 financial statements--audited financial statements.
16 All of our schools are required to maintain audited
17 financial statements of account to the
18 International GAAP. We have continued to provide
19 those reports to UACD, our schools, over the years.
20 This involves putting them into an envelope and
21 posting them because they are already produced.
22 For schools over \$500,000 of loans it has been a
23 major headache. Why? Because your rule book. The
24 rule book. Can you imagine this? This is a major

1 issue for any foreign school. It's bad enough
2 trying to understand your own country's
3 legislation; it's another issue altogether to
4 understand American legislation with nomenclature
5 like Title IV, which, of course, means nothing to
6 somebody starting out in Korea, like me three and a
7 half years ago coming to Washington.

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

18 The compliance audits are another issue
19 altogether. These typically cost between \$10,000
20 and \$15,000 USD per institution. If you have only
21 a few students, and most of our schools only have 6
22 to 10 students typically--some have a lot more than
23 that--but for a few students this is an excessive
24 burden. It would make sense--I know that the

1 legislation change provides for flexibility for the
2 Department. It would make sense to require at
3 least one audit to start with, but then to provide
4 some flexibility for small numbers of students who
5 are receiving federal student aid to not require
6 those on an annual basis. Maybe every three to
7 five years you could look for another audit
8 statement. I would think that the same thing could
9 apply for financial statements, but we have no
10 problem with the removal of the requirement.

11 The second issue of concern is the lack of
12 any kind of induction and training mechanism. We
13 know that schools in the United States are able to
14 access training. Our schools end up paying private
15 consultants to receive training in federal student
16 aid, and we think this is not ideal. We wrote a
17 letter from our Secretary of Education to your
18 Federal Student Aid Director in 2006, asking for
19 training. We have not had any response to that as
20 yet in a positive manner. We would certainly like
21 to see training available to foreign schools,
22 perhaps on a regional basis, not necessarily on a
23 per country basis. That would be of great
24 assistance.

1 Inducements. We understand very much the
2 concern around the potential for student loan
3 inducements, but we do have concerns about a
4 current situation which indicates a tightening of
5 requirements. Contracts to third-party providers
6 are now being sought by the Department. Those
7 contracts have been found to be wanting, and we
8 believe this is not appropriate.

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

20 The only reasonable way in which our
21 institutions can pay for those services is on the
22 basis of a fee-for-service which is linked to
23 volumes of students that arrive. It would be
24 unreasonable to think of any other mechanism. I'm

1 concerned, though, that the current move will drive
2 down transparency, and we would ask particularly
3 for transparency to be one of your key criteria
4 here in making decisions on rules that apply under
5 the changes from last year's amendment.

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

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

23 The last issue in this group is the
24 provisions around electronic enrollment and

1 distance education that are in the Higher Education
2 Act. We're concerned that in an age--in the 21st
3 century where electronic provision is very
4 widespread and students take mixed modes--they take
5 an electronic course, an E-course, alongside a
6 traditional face-to-face mode--that the way that
7 this is currently interpreted prevents students
8 from looking to do a mix of provision. We have no
9 problem with removing any requirement for students
10 to enroll in full electronic provision. This is
11 about risk reduction; we understand the issues
12 there. But to take a mixed mode makes sense to
13 provide the kind of flexibility for students that
14 you would expect in this century. We do
15 understand, also, that the way in which that
16 legislation could be interpreted leaves it open to
17 all sorts of problems, so we'd be very happy to
18 work through that.

19 On that note, the International Education
20 Council is a recognized body here in the United
21 States. It provides support for foreign schools
22 more generally in all countries, and we would
23 encourage you to include them on the Negotiated
24 Rulemaking Committee.

1 Finally, direct lending. This has been
2 proposed by the President, and we understand that
3 it is currently being prepared for introduction in
4 both the House and the Senate. We have some
5 concerns about the potential for overlooking
6 American students studying in foreign providers,
7 particularly as direct lending is not currently
8 accessible by foreign schools. Only the FFEL
9 Programs are available. And the--we're also very
10 concerned about the potential for much higher
11 compliance costs for our schools in participating
12 in the Direct Lending Program. Currently, the
13 system is not accessible by foreign schools, and we
14 have questions about whether such a system could be
15 made accessible by the 1st of July next year as
16 well.

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

21 Thank you very much for the opportunity to
22 speak.

23 *Tena koto, tena koto, tena koto katoa.*

24 **MR. MADZELAN:** Thank you very much.

1 John Cavanaugh, Pennsylvania State System
2 of Higher Ed.

3 **MR. CAVANAUGH:** Good morning. My name is
4 John Cavanaugh and I have the privilege of serving
5 as Chancellor of the Pennsylvania State System of
6 Higher Education, or PASSHE.

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

19 PASSHE strongly supports President Obama's
20 call to be the world leader in educational
21 attainment. In our view, his administration's
22 commitment to Title IV programs heralds a new era
23 in the federal-state partnership for higher
24 education. PASSHE is firmly committed to doing its

1 part in conjunction with the other states to
2 graduate or credential an additional 1 million more
3 students a year in order to meet this ambitious
4 goal. In truth, we have no other choice if we want
5 our country to be a true world leader in innovation
6 and in economic clout.

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

18 I'm proud that PASSHE has all of these,
19 enabling it to provide academic programs of high
20 quality at the most affordable cost in the state.
21 Part of a new, more effective partnership between
22 the federal government and state governments for
23 higher education is surely to make the many parts
24 of our complex federal system work together as well

1 as possible. Rulemaking is an important tool for
2 this purpose, and we welcome whatever role at the
3 table we may be able to be invited to for future
4 sessions.

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

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

19 The first, regulations governing foreign
20 schools, including implementation of the HEOA. The
21 increasing globalization of higher education brings
22 states face-to-face with a set of policy issues
23 that go well beyond the demands of traditional
24 international programs. Both U.S. and foreign-born

1 students are increasingly mobile, raising questions
2 related to immigration or visa status, financing,
3 liability, consumer protection, and other areas of
4 state interest. Like many U.S. institutions,
5 PASSHE institutions are increasingly engaged in
6 programs abroad, which sometimes occur under
7 unclear jurisdiction. Most important,
8 globalization demands that states compete in a much
9 broader, more complex higher education marketplace,
10 a challenge that some other nations address through
11 national higher education export or import
12 strategies designed to help institutions compete
13 globally. For a combination of reasons, our
14 federal system makes this difficult.

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

23 Satisfactory academic progress. Like most
24 public colleges and universities, PASSHE is engaged

1 in a variety of strategies to improve the
2 preparation of students for postsecondary
3 education, ensure smooth transition from high
4 school to college and from one college university
5 to another, and increase program completion rates.
6 Satisfactory academic progress criteria for
7 purposes of federal Title IV programs relate
8 directly to these efforts. PASSHE has deliberately
9 increased the range in quality of academic and
10 other support services and have increased
11 completion rates significantly as a result.

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

23 If rulemaking in this area is undertaken,
24 states' system heads and states' academic affairs

1 officers would be appropriate participants. And
2 again, I would encourage the Department to take a
3 look at performance funding models around the
4 country to see how satisfactory academic progress
5 can be used as one indicator of appropriate
6 performance.

7 The third topic of incentive compensation
8 for recruiting and admission activity. States play
9 a variety of roles in preventing fraud and
10 providing consumer protection in higher education
11 as well as in other areas. Whether through state
12 systems or under the authority of the state
13 attorney general, these roles are both a legal
14 obligation and an important component of the
15 regulation of postsecondary education at the state
16 level. The forms of compensation allowable under
17 program participation in Title IV may appear to be
18 outside the boundaries of this state authority.
19 But to the extent that abuses, fraud, or consumer
20 complaints occur, they are likely to involve state
21 as well as federal laws in enforcement. Moreover,
22 federal changes could require changes at the state
23 level or contribute to any inconsistencies in
24 treatment and enforcement.

1 So, in order to ensure good articulation,
2 states should be included in any rulemaking in this
3 area and adequate representation will need to take
4 into account the diversity of roles, statues, and
5 structures across the states.

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

15 This may require the involvement of other
16 state offices which operate within differing agency
17 structures. Whether or not the Department
18 determines that rulemaking in this area is required
19 or appropriate, there is a growing need to bring
20 the various federal agencies and the various
21 reporting and accountability requirements into
22 better alignment with state needs and state
23 practices in these areas. For this purpose, state
24 participation would be advisable.

1 The fifth topic of state authorization as
2 a component of institutional eligibility. This
3 topic raises extremely complex issues due to the
4 variety of roles that states play relative to
5 institutional operation and degree granting
6 authority. For this reason, state authorities need
7 to be included in any rulemaking on this topic,
8 along with a balanced representation of
9 postsecondary providers who enroll students across
10 state lines as well as accrediting agencies and
11 organizations.

12 The sixth topic of definition of "credit
13 hour" for program and PELL eligibility. The
14 federal government, and the National Center for
15 Educational Statistics in particular, play
16 extremely important roles in establishing
17 consistent definitions for many of the data
18 elements widely used in higher education.
19 Unfortunately, the importance of this federal role
20 may get lost in the technical complexity in
21 obscurity in the issues. Many of these common and
22 critical definitions, though, are used directly by
23 states in funding formulas--and you heard a little
24 bit about that earlier--allocation mechanisms,

1 program review and approval, and other functional
2 and administrative areas.

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

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

20 Let me conclude by saying PASSHE welcomes
21 opportunities to be full participants in the
22 Department's rulemaking actions. I suspect that we
23 all realize, though, that we need to take steps
24 that go well beyond the purposes and realms of

1 rulemaking. What we need is a recommitment, not
2 just to work together more effectively, but to work
3 together meeting increasingly urgent national,
4 state, and local needs with commitment and
5 collaboration far surpassing that of the past.
6 Immense progress has been achieved when the federal
7 government marshals the efforts of institutions and
8 leverages the resources of states to expand
9 educational opportunity and provide the basis for
10 growth and innovation in the economy. It is time
11 and it is imperative that we make this partnership
12 even better.

13 Thank you for this opportunity for PASSHE
14 to testify.

15 **MR. MADZELAN:** Thank you.

16 Richard Dumaresq, Pennsylvania Association
17 of Private School Administrators.

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

1 Title IV loan funds.

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

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

18 Colleges and schools must disburse all
19 loan funds to students, if requested by the
20 students, and when tuition payments are current.
21 Financially illiterate student borrowers often
22 spend the money without budgeting and many have to
23 drop out when they run out of money. They are then
24 left with a higher debt burden, while not having

1 completed the education needed to seek employment
2 to pay for that education. As a result, many
3 students in that predicament default on their
4 loans. Other students incur such a higher debt
5 burden, often borrowing two times what they need
6 for their education, that the monthly loan
7 repayments are beyond their budget.

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

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

21 We would propose some changes to allow
22 schools the following authority: Number one,
23 possibly allow for professional judgment by the
24 Financial Aid Office to limit loans to the cost of

1 attendance; or two, allow an institution to set a
2 limit on what reasonable living expenses are by
3 defining them; or three, create a formula for
4 allowable educational expenses.

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

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

11 **MR. MADZELAN:** Thank you.

12 Susan Saxton, Laureate Education.

13 **DR. SAXTON:** Good morning.

14 **MR. MADZELAN:** Hello.

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

18 Laureate Education's U.S. campuses are
19 members of the Laureate international network of
20 universities, a growing network of over 40
21 institutions in 20 countries. Laureate's United
22 States presence consists of three accredited
23 institutions: Weldon University, Kendall College,
24 and the NewSchool of Architecture and Design.

1 I appreciate the opportunity to share
2 Laureate's thoughts with you on a number of issues
3 that we believe the Department should consider
4 during its next Negotiated Rulemaking process.

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

12 Regarding incentive compensation, the
13 Higher Education Act's prohibition has proven
14 difficult to implement and regulate. In 2002, the
15 Department reasonably tried to clarify the contours
16 of the prohibition by creating safe harbors to
17 assist institutions in maintaining compliance with
18 the statutory limitation and allowing for salary
19 adjustments under certain circumstances. Even with
20 the safe harbors, however, institutions have had to
21 make good faith interpretations of the provisions.
22 Because the safe harbors list provides only
23 examples of permissible activities, institutions
24 are similarly left to determine on their own what

1 other compensation practices may be allowed.

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

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

23 First, the Higher Education Opportunity
24 Act's legislative history explicitly stated that

1 its inclusion of liberal arts language was not
2 meant to affect the eligibility of current programs
3 or alter the method used by the Secretary in
4 determining recognized occupations as currently
5 required by the Act.

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

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

23 Students graduating from all three of our
24 institutions experience similar impressive

1 outcomes, including their job placement rates.
2 However, we would caution against any federal
3 policy that assumes a uniform meaning of "gainful
4 employment." That term may have different
5 meanings, depending on the institution and each
6 student's personal situation. For example, many
7 students graduate from one program and then
8 immediately enroll in another, whether graduating
9 from the undergraduate to graduate level or from
10 the master's to the Ph.D. level.

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

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

23 Weldon University is an entirely online
24 institution based in Minnesota. Kendall has a home

1 campus in Illinois, while offering online programs.
2 And the NewSchool has its campus in California.
3 With state approvals currently in multiple states,
4 each of our institutions look forward to learning
5 more about the Department's concerns with the state
6 authorization requirements as a component of
7 institutional eligibility.

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

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

20 Thank you.

21 **MR. MADZELAN:** Thank you.

22 Nancy Broff, ITT.

23 **MS. BROFF:** Good morning. My name is
24 Nancy Broff, and I am here today representing ITT

1 Educational Services, Inc.

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

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

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

1 qualified to enter.

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

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

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

22 Most for-profit institutions provide
23 information to prospective students of examples of
24 the types of employment that graduates of the

1 program have obtained in the past. Because of the
2 possibility that a single program can prepare a
3 student for a number of occupations, ITTESI
4 suggests that any regulation implementing this
5 statutory provision should not be overly
6 prescriptive in requiring direct linkage to one
7 single occupation.

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

21 Under the current regulation, institutions
22 have the ability to fashion compensation programs
23 that are within the safe harbors and are able then
24 to operate with some confidence. Clarity in the

1 regulatory guidance is especially important in this
2 regulation because the statutory language is so
3 vague.

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

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

23 ITT Technical Institutes attempt to ensure
24 that our students have presented legitimate high

1 school diplomas through a variety of checks and
2 reviews, including having our internal auditors
3 review a sample of diplomas. When we are able to
4 identify a diploma mill, we add it to a list and no
5 longer accept diplomas from that high school.

6 However, to the extent that diplomas from
7 diploma mill high schools or any other high schools
8 look on their face to be legitimate and there's no
9 publicly available database of legitimate high
10 schools from which to check, it would be an
11 unreasonable burden on institutions to require them
12 to research the legitimacy of every single high
13 school from which a student produces what appears
14 on its face to be a legitimate diploma.

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

20 One area that poses particular challenges
21 is the level of expertise relating to the Federal
22 Tax Code that our financial aid officers need to
23 have in order to resolve surface-level
24 discrepancies, such as determining whether the

1 student and his or her family filed their income
2 taxes properly as head of household or married
3 filing separately, for example.

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

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

18 ITT Technical Institutes proudly serve a
19 large number of veterans and active-duty service
20 members. We appreciate that combat pay was removed
21 as an addition to income for the 2009-2010 award
22 year. We suggest that this policy be broadened by
23 removing all veterans' non-education benefits from
24 being added to untaxed income.

1 The more that the Department of Education
2 can do to simplify the data elements that must be
3 verified and provide database matching capability
4 and provide clear guidance to federal aid
5 administrators, the better positions institutions
6 will be for compliance.

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

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

1 under Satisfactory Academic Progress tend to
2 withdraw.

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

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

18 One additional item, to echo several of my
19 colleagues who have spoken, that we would like to
20 see added to the table is mechanisms that would
21 help to limit over-borrowing by students. One way
22 that we think this could be done would be to allow
23 institutions to make a policy determination on a
24 broad scale rather than on a student-by-student

1 basis that certain groups of students could be
2 limited in their ability to borrow.

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

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

18 It would be a welcome policy change if the
19 Secretary, by regulation, would allow institutions,
20 at their option, to set a zero cost-of-living
21 allowance for students who continue in their
22 current employment while attending school, and,
23 therefore, have no additional costs that are fairly
24 attributable as living costs for educational

1 attendance. The institution could have a policy
2 that would permit the financial aid official to
3 make an exception on a case-by-case basis that
4 would allow a cost of living allowance for students
5 who truly do have some additional cost-of-living
6 expense attributable to their educational pursuit.

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

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

24 He analyzed data from both the BPS

1 longitudinal survey and the IPED DAS. Not
2 surprisingly, he found that student bodies at
3 career colleges have more risk factors than
4 students attending institutions in the traditional
5 college sectors.

6 However, when he examined the outcomes of
7 career college students, he made some interesting
8 findings. Career colleges overall had a lower
9 graduation rate at the four-year level than
10 private, not-for-profit, and public institutions:
11 48 percent compared to 64 percent for the not-for-
12 profits and 53 percent for the public. But we did
13 have higher rates at the two-year level: 59
14 percent for career colleges compared to 55 percent
15 at not-for-profits and 23 percent for public two-
16 year institutions.

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

22 Among four -year institutions whose
23 student bodies are less than 25 percent white,
24 career colleges graduated a significantly higher

1 percentage of students: 47 percent compared to 40
2 percent at private not-for-profits and 33 percent
3 at four-year public institutions. Among two-year
4 institutions that served a similarly high
5 population of minority students, career colleges
6 had a 56 percent graduation rate compared to a rate
7 of 44 percent at the private not-for-profits and 16
8 percent at public institutions.

9 Among four-year institutions that are open
10 admissions institutions, career colleges graduated
11 45 percent of their students compared to 42 percent
12 at the private, not-for-profit four-year
13 institutions and 31 percent at public institutions.
14 And at the two-year level, open admissions career
15 colleges graduated 60 percent of their students
16 compared to 59 percent at private not-for-profits
17 and only 23 percent at public institutions.

18 So, when you look at comparing
19 institutions on an apples-to-apples basis, when you
20 really drill down and look at the student bodies
21 they're serving, you see that the career college
22 sector is doing a very good job of helping their
23 students with persistence and attaining the degrees
24 that they are seeking.

1 The student Financial Aid Program
2 regulations are technical and complex. Of
3 necessity, this statement does not cover every
4 issue that is of importance to ITT Technical
5 Institutes. I know I'm standing between the group
6 and their first coffee break.

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

11 **MR. MADZELAN:** Thank you.

12 **MS. BROFF:** Thank you.

13 **MR. MADZELAN:** Thank you.

14 Let's take a break and come back here at
15 10:40. We're actually right on schedule.

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

23 Okay. Then we'll--I will--every so often,
24 I will ask again just to make sure, okay?

1 Second thing is that if, you know, I
2 mangle your name when introducing you, please don't
3 hesitate to correct me. I try to be sensitive to
4 that since I'm one of those people with one of
5 those names, so.

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

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

10 [Laughter.]

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

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

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

20 And secondly, as a proud graduate of the
21 University of Pittsburgh, one of the state
22 universities that was mentioned before, all I can
23 say to my friends from Penn State is: Go,
24 Panthers.

1 Also, I'm very surprised to learn that so
2 many people with MBAs from Harvard and Columbia are
3 interested in major topics such as verification of
4 information included on student aid applications.
5 So, thank you all for being here today.

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

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

21 On February 26th, President Obama made a
22 similar commitment. He said by the year 2020, this
23 country will once again be number one in the world
24 in terms of people with postsecondary degrees. To

1 us in the career college world, to employers, to
2 people in society, the fact that this country has
3 fallen in one generation from 1st to 10th or 14th,
4 depending on how you count it, is a real
5 disappointment not just psychologically as many
6 people take it, but as a fundamental threat to the
7 well-being of this country and a fundamental block
8 to growing a middle class in this country. So we
9 are very, very excited about what President Obama
10 has committed.

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

23 So, we believe we have a critical role to
24 play in meeting the goals that President Obama set

1 out in his February 26th speech, and we're very
2 pleased to be working with the Department.

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

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

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

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

1 because she's a high school water polo player.

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

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

1 working to complete their education.

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

6 One of the issues that has come up quite a
7 bit is the issue of FAFSA simplification, and I
8 know you're having further discussion on that
9 tomorrow. We as an association greatly support
10 that. We think it's critically important. But I'd
11 also mention to you that a recent report that was
12 done by Dr. Mark Kantrowitz of FinAid found that
13 while among the general population--overall student
14 population, a little over 60 percent of students
15 who were Pell-eligible actually get a Pell and
16 while among community college students it's about
17 55 percent of students who are Pell-eligible
18 actually receive a Pell. Among career college
19 students, it's over 97 percent.

20 Now, I don't think that necessarily means
21 that our students are better with dealing what
22 everyone admits is a very, very complicated
23 application. I think what it shows, though, if the
24 school was willing to work with the student in a

1 collaborative manner--starting from day one when
2 that student wants to be admitted--works through
3 the process of how do you get a student aid package
4 together, helps them to understand what a college
5 education is about and ultimately helps that
6 student get a job. That's very important.

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

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

22 Let me first of all put this in context,
23 because I think it's important to understand. We
24 in the career college sector represent some schools

1 that are, frankly, fairly expensive. They have
2 very great expense to run the schools, there's a
3 lot of technology involved, a lot of equipment
4 involved. We run schools that are middle expense,
5 and we run schools that are lower expense.

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

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

23 And I think what you were hearing today
24 from Mr. Dumaresq, for example, and from Ms. Broff

1 and Ms. Curtis, is in some of our lower cost
2 programs, there clearly is over-borrowing. If the
3 program is not that expensive and if the expected
4 earnings are not that high, we believe the schools
5 should have the right--and we support the similar
6 proposal to what Ms. Broff put forward--where on a
7 programmatic, transparent basis--so there's no
8 question of individual discrimination or individual
9 decision. But on a programmatic, transparent
10 basis, say, this program only cost this much and it
11 simply doesn't make sense to allow the student to
12 borrow more than is needed when, in fact, another
13 program or a school may cost a lot more,
14 particularly when there's likely also to be a major
15 earnings difference when the person completes his
16 or her education.

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

22 So, we think that's--hope that that would
23 be added to the issues that the Department
24 considers.

1 On the incentive compensation. Again,
2 it's been said previously by several speakers, in
3 our minds, these things are called safe harbors. I
4 wasn't around in 2002, but I've talked to a lot of
5 people who were and discussed this with a lot of
6 schools and attorneys. And I think the basic
7 problem was, as Ms. Broff and Dr. Saxton, others
8 said, there simply was no clarification.

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

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

23 On high school diploma mills, we hate
24 them, you hate them. If we can figure out a way to

1 get rid of them, we're all for it. When I first
2 came to the CCA, we called the NCAA and said you
3 have any great ideas? And they said we've tried.
4 We can't figure it out. But we look forward to
5 working with you. It's a nightmare for our schools
6 and something that really drives them crazy.

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

16 Again, I repeat some of the comments of
17 the earlier speakers. Let's not be overly
18 prescriptive because it's a complex world out there
19 in terms of educational programs and in terms of
20 employment opportunities. But at the end of the
21 day, I think the more there is in higher education
22 about outcomes, the same way they're being more and
23 more asked about K-12 and that's pushed both
24 through the Bush Administration and now Secretary

1 Duncan in the Obama Administration, we believe
2 those same questions must be asked in higher
3 education. And we're glad to stand up and talk
4 about our outcomes and hope that other sectors will
5 be interested and willing to do the same.

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

9 **MR. MADZELAN:** Thank you.

10 Timothy Moscato, Apollo Group.

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

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

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

1 of alternative schedules.

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

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

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

24 The reasons for their stopping and

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

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

17 Our sector comprises four-year
18 comprehensive universities like University of
19 Phoenix, which is regionally accredited and offers
20 associate's degrees through doctoral degrees, as
21 well as other types of good schools that provide
22 everything from test preparation for CPAs to
23 vocational training for medical technologists,
24 graphic designers, and dog groomers. But there is

1 a reason we're a thriving sector and I will now
2 focus my comments on my own institution because
3 it's one I know best.

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

12 We are a purpose-driven organization that
13 grew out of a social mission: to serve an
14 underserved population. In the early 1970s, when
15 Phoenix was founded, there simply were no
16 alternatives for working adults. Night classes
17 were possible, but not plentiful, and it took about
18 10 years to obtain a college degree while working
19 full-time to support your family.

20 Our teaching-learning model today retains
21 the original founding principles even in its newer
22 online programs: One, that we focus equally on
23 cognitive and effective domain. Two, that class
24 size is small to maximize faculty support. And

1 three, that collaborative learning methods today
2 termed social networking is a central component for
3 keeping students motivated and providing them with
4 additional support systems.

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

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

17 Thank you.

18 **MR. MADZELAN:** Thank you.

19 Stephen Isaac, Education Dynamics.

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

24 In addition, I spent four years on the

1 faculty and staff of Virginia Commonwealth
2 University and two years on the administrative
3 staff of Passaic County Community College. So,
4 I've seen higher education from a couple of
5 different angles and there are a couple of issues
6 that I wanted to touch on this morning regarding
7 the rulemaking process that I feel are
8 interrelated, but have some concerns about
9 interpretation during the process.

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

21 And I'd like to address this in a couple
22 of different ways. Bob Shireman recently in a
23 conference call said the overall goal at the
24 Department of Education in postsecondary education

1 is to make sure that students--potential students,
2 whether young or old--have access to college; they
3 have the information they need to make good
4 choices; and that they have good quality
5 postsecondary education that serves both of them as
6 students and the taxpayers as well. The taxpayer
7 certainly is entitled to a return on their
8 investment in higher education and that return
9 doesn't get realized unless students actually
10 complete the programs that they start.

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

16 I think that though it is important that
17 we have some obvious restrictions around certain
18 practices of encouragement enrollment, it is
19 absolutely critical that students do have an
20 opportunity to be encouraged. I've spent a lot of
21 my work, both on the academic side and through the
22 schools that I work with, with the adult student,
23 who has been talked about several times this
24 morning. And I can tell you quite honestly that

1 the adult student needs a lot of encouragement to
2 go back to school in many cases. In fact, the very
3 populations most likely to be served by Title IV
4 funds need the most level of encouragement. We
5 have, through working with several of our schools
6 for the past three years, run a very successful
7 scholarship program called Project Working Mom.
8 And obviously it speaks for itself.

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

20 I think if we're going to hit the goals
21 that the President states, the answer to the issue
22 is not making it more restrictive for people to
23 have an opportunity to go back to school. The
24 answer is not making it more difficult for them to

1 get access to the funds they need in order to be
2 acceptable.

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

11 That can translate to remedial activity.
12 It can translate to a retention program.
13 Dr. George Kuh at the University of Indiana, the
14 National Center for Education and Engagement, has
15 done a number of studies over the years and I'm
16 sure you're familiar with them. Many of the people
17 in this room I'm sure are as well. But there are a
18 number of points on which we engage students. And
19 it doesn't really matter whether they are full-time
20 undergraduate students, part-time working community
21 college students, working adults who have gone back
22 to school, or online students, they need to be
23 engaged in a variety of different ways in order to
24 be persistent and be successful. And the factors

1 often working against them are pretty severe. Life
2 factors, if you will.

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

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

20 **MR. MADZELAN:** Thank you very much.

21 **MR. MOSCATO:** Thank you.

22 **MR. MADZELAN:** Elaine Neely, Kaplan.

23 **MS. NEELY:** Good morning. Thank you for
24 the opportunity to appear before you here today. I

1 am Elaine Neely, the Senior Vice President of
2 Regulatory Affairs for Kaplan Higher Education.

3 Kaplan Higher Education is the largest
4 division of Kaplan Inc., which is a subsidiary of
5 the Washington Post Company. Our Higher Education
6 Division serves more than 100,000 students in over
7 70 on-ground campuses and online through Kaplan
8 University. Kaplan University includes the
9 nation's only completely online law school.

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

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

21 We have reviewed the possible topics for
22 Negotiated Rulemaking and, today, I will just
23 briefly touch on some of them. And if there are
24 questions or further information is needed, I think

1 you know where to get me.

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

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

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

1 more further discussions with you.

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

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

18 We support review for the requirements for
19 verification of information submitted on the
20 student aid application, and encourage such review
21 in conjunction with the simplification process.
22 The verification process needs to be streamlined to
23 reduce the burden on both students and
24 institutions.

1 And finally, we are really happy to hear
2 that you are planning on looking at the definition
3 of the high school diploma as a requirement for
4 receiving aid. We currently have an internal list
5 with over 85 institutions that attempt to extort
6 money from students. And in our opinion, where
7 they charge students between \$250 and \$500 to
8 receive their high school diploma, only for them to
9 present it to one of our colleges and be told that
10 it's not legitimate and they wasted their money.

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

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

22 With your permission, I would like to
23 include additional information about Kaplan along
24 with comments from students and our employers as

1 part of the hearing record.

2 **MR. MADZELAN:** Sure.

3 **MS. NEELY:** Thank you. Thank you.

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

6 **MR. LAMBERT:** Hi. Good morning. My name
7 is Chris Lambert. I'm the Director of External
8 Affairs with the Accrediting Commission of Career
9 Schools and Colleges of Technology. We are a
10 recognized accrediting agency with the United
11 States Department of Education. Currently ACCSCT
12 accredits over 780 institutions that serve over
13 200,000 students across the United States.

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

20 A little notice of proposed rulemaking
21 listed several areas in which the Department
22 intends to put forth in the Negotiated Rulemaking
23 process. I intend to only speak on three of these
24 issues, ones which we believe to be the most

1 relevant to institutional accreditation practices.
2 These issues include satisfactory academic
3 progress, gainful employment, and the definition of
4 a high school diploma.

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

15 Our standards, like the Department's
16 current regulations, require institutional policies
17 to address factors like integrals of assessment,
18 which are not prescribed but flexible,
19 institutional expectations in relation to
20 graduation requirements, the normal duration of a
21 program and the timeframe within a student is
22 expected to complete that program, and the
23 implications of not meeting an institution's
24 satisfactory academic progress policy.

1 Bless you for whoever sneezed.

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

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

14 Like most measures of student achievement,
15 rates of employment are highly textured and rely
16 heavily on the specific field, the employment
17 opportunities and expectations in that field, and
18 the needs and desires of the student. For example,
19 many students who graduate from ACCSCT-accredited
20 institutions go on to be independent contractors in
21 such fields as commercial art, film, broadcasting,
22 cosmetology, and massage therapy, with highly
23 varied working hours and wages. Thus, we feel it
24 would be inappropriate to narrowly define or to

1 limit a definition of employment in the federal
2 regulations. Instead, determinations of student
3 achievement vis-à-vis employment should be left to
4 the institutions and their accreditors where
5 subjective judgment can be more appropriately
6 applied.

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

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

1 making sound admissions decisions.

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

11 Thank you.

12 **MR. MADZELAN:** Thank you.

13 Mark Pelish, Corinthian Colleges.

14 **MR. PELISH:** I'm Mark Pelish, Executive
15 Vice President of Corinthian Colleges. Corinthian
16 is one of the largest postsecondary education
17 providers in North America. We have more than
18 84,000 students at 106 campuses in the United
19 States and Canada, and our mission is to prepare
20 students for careers that are in demand or for
21 advancement in their careers.

22 We support the Department's goals for this
23 regulatory proceeding. We believe that the
24 interest of students, not institutions, should be

1 paramount in the student financial aid and other
2 programs administered by the Department. We agree
3 with Deputy Undersecretary Shireman's recent
4 comments that the key considerations should be
5 whether students get the information they need to
6 select the right institution and whether
7 institutions, irrespective of their ownership
8 structure, are effective in producing a good return
9 on investment for students and for taxpayers.

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

21 To achieve this goal we will need the
22 capacity offered by all sectors of postsecondary
23 education, including proprietary institutions.
24 Indeed, we'll need additional capacity and

1 additional options for students, and we think we
2 have the ability to provide that capacity and can
3 make a real contribution toward that goal.

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

22 Second, on the topic of incentive
23 compensation, it's important to remember that the
24 whole purpose of the Incentive Compensation Rule is

1 to encourage the provision of accurate information
2 to students prior to their enrollment and
3 application for financial aid and to encourage a
4 good match between students and institutions. We
5 fully support these aims.

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

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

24 As the Department reviews these

1 regulations, we would urge the Department, first,
2 not to take any steps back to the uncertainty that
3 existed prior to 2002; and, second, to consider a
4 process for providing guidance on the application
5 of the regulations to circumstances that the
6 regulations, however thorough, can never completely
7 anticipate.

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

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

20 And third, the Internet was in its infancy
21 when Congress enacted the original rule in 1992,
22 and the circumstances surrounding student
23 institution interaction via the Internet are very
24 different from the face-to-face interactions upon

1 which the rule was based.

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

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

22 Now, gainful employment in a recognized
23 occupation. This topic appears to speak to what we
24 advocate: greater focus in the regulations on the

1 effectiveness of institutions and preparing
2 students to be productive members of the workforce.
3 However, we're not sure this is the right vehicle
4 to address this point. The statutory provisions
5 here have been in place for many years and we are
6 unaware of any congressional intent that they be
7 used to judge institutions by the outcomes they
8 produce in terms of, for example, placement rates
9 or income in relation to student debt. Rather, the
10 provisions are a threshold requirement focused on
11 the aim of the programs offered by institutions.

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

22 The Gainful Employment Provision was
23 simply carried forward from previous law with no
24 change in its meaning intended.

1 And finally, if the Department elects to
2 pursue elaboration of the Gainful Employment
3 Provision, it will have ramifications not only for
4 proprietary institutions, but also for public and
5 non-profit institutions as well because this
6 provision is utilized in the definitions of
7 postsecondary vocational institution and eligible
8 program in Sections 102(c), 101(b)(1), and
9 481(b)(1)(A)(i).

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

19 Any institution--public, non-profit, or
20 proprietary--must, under the HEOA, be in a state
21 and be "legally authorized within such state."
22 Section 495 of the HEA establishes state
23 responsibilities in relation to the Title IV
24 programs. And those responsibilities are, in sum,

1 informational regarding, among other things, the
2 process for "licensing or other authorization for
3 institutions to operate within the state."

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

21 Finally, high school diploma. Like
22 others, we support regulations that would bring
23 greater clarity in this area. The proliferation of
24 high school diploma mills is a real problem for

1 campuses. We have no interest other than admitting
2 qualified students. We suggest, perhaps, that the
3 Department might work with the states to develop a
4 national registry of high schools that have
5 appropriate authorization to award diplomas. A
6 student bearing a credential from a high school not
7 on the register would have the burden of proof that
8 the credential is legitimate.

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

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

15 Rob MacArthur. Alternative Research
16 Services.

17 **MR. MacARTHUR:** Hi. My name is Rob
18 MacArthur. I'm in the investment industry. I've
19 been following the for-profit education sector for
20 over a decade. Over the many years I've watched -
21 the cat-and-mouse game between the Department of
22 Education and the industry. Sadly, despite the
23 claims of being heavily regulated, this industry
24 has been largely unregulated under the Bush

1 Administration. With a former Apollo lobbyist at
2 the helm of postsecondary education, enforcement
3 was lax despite numerous Inspector General reports
4 encouraging better enforcement.

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

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

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

23 In FY 2008, the University of Phoenix
24 received 82 percent of its revenue from Title IV

1 programs. UOP received only 10 percent of its
2 revenue from Title IV programs in 2001.

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

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

19 "The Department interviewed more than 60
20 present and former enrollment counselors prior to
21 and after the site visit." Most of the recruiters
22 said that when they were hired, UOP told them that
23 their job had tremendous financial potential and
24 that they could "make a lot of money." UOP

1 promised to "double or triple salaries in three to
2 six months."

3 In another deposition, an enrollment
4 counselor stated, "I was told to enroll students no
5 matter what, regardless of their qualifications."
6 Another enrollment counselor complained that the
7 student was illiterate, but they were being forced
8 to enroll that student.

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

15 Refund calculations. In an OIG report
16 dated December 2005, the Department found UOP
17 applied inappropriate methodologies to determine
18 the percentage Title IV aid earned for calculation
19 purposes. UOP did not have a policy to review
20 accurate payment periods and end dates for the
21 purposes of calculating Title IV. They
22 systematically monitored student's data, progress,
23 readjusting beginning and ending dates of payment
24 periods to accommodate leaves of absence, no shows,

1 failed courses, or repeat findings--repeat courses.
2 Referring to this process as remapping, UOP
3 readjusted payment period end dates and rescheduled
4 second disbursement dates.

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

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

20 While I understand the Administration's
21 desire to improve college access, the for-profit
22 model is not an efficient way to achieve this goal.
23 Intel came out two years ago--a few years ago, and
24 reported that they would no longer honor University

1 of Phoenix's graduates; they would not accept their
2 degrees because of the low quality of that student.
3 One need look no further than ripoffreport.com or
4 consumercomplaints.com with hundreds and hundreds
5 of pages of complaints by former students being
6 duped by University of Phoenix.

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

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

20 Most importantly, I would recommend that
21 the Department apply the new third year default
22 rate calculation retroactively, not starting with
23 the 2009 cohort, which is what's planned as stated
24 last year. Starting with the 2006 data or the

1 preliminary 2007 data, I think the Department of
2 Education could ensure taxpayer safety much better
3 if they included the third year defaults.

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

14 Last year, at the end of the Bush
15 Administration, the cohort default rate limit for
16 loss of eligibility was increased from 25 to 30
17 percent. It was increased because the industry
18 realizes that if the third year calculation is put
19 into place, their average cohort default rate will
20 suddenly double. Many of them are up 50 percent
21 sequentially from 2006 to 2007. So I would
22 strongly recommend that the Department lower the
23 cohort default rate eligibility threshold from 30
24 percent back down to 15 percent.

1 Nobody wants to talk about these issues.
2 I've dedicated the last 12 years of my life
3 examining this industry and I see very similar
4 parallels between this and Countrywide Credit and
5 the predatory marketing practices that have
6 occurred in the mortgage industry. I have similar
7 information on the other for-profit education
8 companies. I just singled out Apollo because I
9 happened to be following the lawsuit most closely
10 because there are so many interesting depositions
11 coming out of that lawsuit.

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

22 Thank you very much.

23 **MR. MADZELAN:** Thank you.

24 Tom Netting. American Association of

1 Community Colleges (AACCS).

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

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

19 As I said, I'm here on behalf of AACCS, an
20 organization that is comprised of over 1,000
21 institutions providing tens of thousands of
22 students each year with a quality education leading
23 to a licensed credential enabling graduates to
24 enter the workforce and pursue a rewarding,

1 professional career in an industry generating over
2 \$3 billion a year in annual revenue.

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

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

18 I live in Washington, a world of acronyms.
19 And for us, CARE stands for choice, which means
20 student choice; access, which means student access;
21 regulatory reform, which means that we support
22 reforms that are done for and provided for all
23 institutions of higher education; and equity,
24 equity for all students and equity for all

1 institutions in the development of any new
2 regulations brought forward.

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

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

21 The first, at a recent AACCS student
22 financial aid workshop, our regional Department of
23 Education official stated that the Department had
24 made a determination that 225 hours is considered

1 the equivalent of six semester credit hours for
2 purposes of applying the new HEOA provision with
3 regard to ability to benefit. We ask that the
4 clock hour--we note that the clock hour to credit
5 hour conversion is 180 hours, is the equivalent to
6 6 semester credit hours. Therefore, given the
7 inconsistencies in determination of clock hours to
8 credit hour equivalency, AACCS requests that the
9 determination of clock hour equivalency, for
10 purposes of new ability to benefit--of the new
11 ability to benefit definition, be added to the list
12 of topics for consideration in the next round of
13 negotiations.

14 Second, with regard to cohort default
15 rates, AACCS urges that the addition of cohort
16 default rate appeals options in the list of topics
17 for consideration in the next round. During the
18 recently completed federal negotiations
19 implementing the HEOA provisions, several non-
20 federal negotiators as a part of Team 2, of which
21 AACCS was a part, added a list of additional CDR--
22 attempted to add a number of additional cohort
23 default rate appeals options to the agenda. In
24 bringing their proposals forward, the non-federal

1 negotiators expressed serious concerns with the
2 anticipated impact of the economy, the
3 corresponding unemployment rates, and the collapse
4 of the federal lending and banking community as
5 part of why the students might be willing or, more
6 importantly, unable to repay their loans.

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

16 AACCS respectfully disagrees with the
17 Department's assessment in this area and once again
18 requests that the following CDR appeal options be
19 open to federal negotiations. First, institutional
20 fulfillment of their default plan. On a case-by-
21 case basis, institutions who efficiently and
22 effectively implement the default management plans
23 as required in the statute, in coordination with
24 the Department of Education, must be qualified and

1 eligible to continue participating in the programs.

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

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

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

19 Third, prior minor-year charges. A little
20 more than a year ago, AACCS first became aware of a
21 shift in interpretation by the Department regarding
22 the awarding of federal student financial
23 assistance under the prior minor year charges
24 regulations. Since that time, we have actively

1 engaged in dialogue with the Department in an
2 effort to address the unintended consequences we
3 believe negatively impact students and their
4 ability--and our ability to comply. We acknowledge
5 and appreciate steps taken by the Department over
6 the past 14 months to address our concerns, and
7 your willingness to work with us to protect the
8 interest of students in schools in this area.

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

19 And finally, as previously stated, the
20 issue of professional judgment as it relates to
21 over-borrowing of students, AACCS urges the
22 Department to work with our community to develop
23 regulations under the Criteria for Professional
24 Judgment which will enable our financial aid

1 administrators to prevent students from borrowing
2 federal student financial assistance beyond that
3 which is needed directly for their education and
4 training. We are deeply concerned that the
5 emphasis on providing students and their families
6 with information on all of the student financial
7 assistance that they qualify for may present very
8 serious and unintended consequences in the form of
9 increased borrowing, leading to larger than
10 necessary student indebtedness, an increased risk
11 of future defaults for students from lower socio
12 and economic incomes and PACs, and additional
13 upward pressure on proprietary institution's
14 eligibility to comply with the participation under
15 the 90/10 rule.

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

22 Thank you.

23 **MR. MADZELAN:** Thanks, Tom.

24 Tom was our last speaker scheduled for

1 this morning, so since it is close to 12:00, we
2 anticipated breaking for lunch anyway, let us break
3 now for lunch, give you an extra 10 minutes or so,
4 and we will reconvene precisely at 1:00 p.m. Thank
5 you.

6

7

8 [Whereupon, at 11:50 a.m., a luncheon
9 recess was taken.]

10

11

12

13

14

15

16

17

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

[1:00 p.m.]

1
2
3 **MR. MADZELAN:** We'll go ahead and get
4 started now with our first speaker this afternoon,
5 Jillian Estes; James, Hoyer, Newcomer, Smiljanich &
6 Yanchunis, if I have any or all of those right.

7 MS. ESTES: What's that?

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

10 **MS. ESTES:** You got the point across.

11 **MR. MADZELAN:** Welcome.

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

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

23 In the interest of full disclosure, I
24 currently represent a class of students alleging

1 deceptive trade practices and unsupervised internal
2 lending against Westwood College, a for-profit
3 career institution based out of Denver, Colorado.
4 As such, much of my investigation into the industry
5 has centered around Westwood. However, I'm
6 confident in my findings that the career college
7 community is a small one and the practices of one
8 school are often reflected very similarly in the
9 practices of the others.

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

1 schools, as to how they view the public, including
2 their own students.

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

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

20 However, the former employees have no such
21 restrictions and they speak freely about the
22 practices they've witnessed and participated in.
23 While the career colleges may appeal to regulators,
24 they do not pay bonuses in exchange for

1 recruitment. The environment created at the
2 schools tells a very different story. Employees
3 repeatedly tell me stories of parties and gift
4 certificates, meals out, extra vacation time, and
5 even exotic trips to the Caribbean, all for
6 securing a certain number of student applications.
7 Not graduations, just applicants that stay past the
8 14-day window needed to secure Title IV funds.

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

21 My first suggestion then is that the
22 Department completely reexamine the practical
23 impact of these dangerous harbors and remove or
24 narrowly define them to consider the elaborate

1 incentive programs as part of the bonus structure
2 that is weighed in considering Title IV compliance.

3 I apologize in advance for a slight
4 deviation in getting to my next suggestion for
5 Department regulation. I was educated at the
6 University of Florida, and for 10 years, I have
7 been a devoted fan of the Gator football program.
8 It's been a good 10 years for us. Any diehard fan
9 of college football will tell you that the single
10 most important indicator of continuous program
11 success is strong recruiting. And while Mr. Harris
12 attempted to compare career college recruiting to
13 his neighbor's water polo contacts, he left out the
14 major difference: Because of the critical nature
15 of recruitment, college coaches' recruiting
16 activities are heavily regulated by governing
17 bodies and any misstep is quickly and consistently
18 penalized. Simply, schools that violate the rules
19 of recruiting are forbidden from recruiting in
20 future years with the number of years tied to the
21 severity of the violation. The threat to future
22 seasons encourages accountability and
23 responsibility by all members of the team in
24 ensuring a proper recruiting period.

1 The financial success of a career college
2 is undeniably similar in that it depends nearly
3 entirely on the continued enrollment of new
4 students, but the current penalties for violations
5 fall far too short of providing a deterrent value.
6 Under the current system, schools that are tapped
7 with admissions violations are largely able to
8 dismiss the issue and continue on with business as
9 usual. By way of example, Westwood College
10 recently settled a federal lawsuit alleging a
11 variety of recruiting and state regulating issues.
12 The \$7 million settlement was a mere pittance to a
13 school that brought in over \$300 million last year.
14 At that rate, schools are likely to consider the
15 lawsuits or fines simply to be part of the cost of
16 doing business.

17 But if the Department instills a penalty
18 that would limit the amount of federal funds that
19 can be spent on recruiting, the schools will
20 recognize that there is no other option than to
21 correct any improper practices or risk losing the
22 life blood of their financial success. Restricting
23 the federal funds allowed to be used for
24 advertising would make the money into a shield used

1 to protect the students rather than a sword to
2 attack uninformed and unprepared potential
3 applicants.

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

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

24 As a consumer attorney, I'm committed to

1 representing the students whose lives have been
2 destroyed by insurmountable debt created as a
3 result of misinformation and straight-out lies
4 about program quality. There is a lot of job
5 security in that field these days. But the value
6 of constantly reacting pales in comparison to the
7 value of proactive regulatory measures, the two
8 suggestions I've introduced--a broad view of the
9 incentives included in Title IV compliance
10 evaluations and the penalties focused on limiting
11 the amount of Title IV dollars that can be used in
12 recruiting--will strongly encourage career
13 institutes to reevaluate their recruiting methods
14 to make students, rather than profit, their true
15 priority.

16 **MR. MADZELAN:** Thank you.

17 **MR. CUMMINGS:** David, I actually have a
18 question.

19 **MR. MADZELAN:** Jillian, question from
20 Glenn.

21 **MR. CUMMINGS:** Ms. Estes, could you
22 describe specifically where you see the--examples
23 of the infractions you see on enrollment recruiting
24 and the process of recruiting?

1 **MS. ESTES:** Certainly.

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

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

22 In addition, we believe that the schools
23 violate a--and I'm speaking, I apologize, but
24 mostly about Westwood because that's where the bulk

1 of my information has come from--that the schools
2 represent their admissions counselors as having a
3 background in education and being qualified to make
4 enrollment decisions when, in fact, they're sales-
5 related jobs. Their job descriptions strictly
6 define sales positions. They have no background in
7 education. And I think one of the major concerns
8 we've seen, I can--I'll submit a copy of our
9 lawsuit, but as the exhibit to that, there has been
10 e-mails exchanged showing really the way that the
11 recruiters consider the students as simply targets.
12 In one example they use the method of a drive-by
13 shooting as an analogy for having recruiting
14 another student, sending around to the whole
15 company a picture of some gangsters shooting out a
16 window as an indication they've secured a second
17 application that morning. So just a variety of
18 ways that show that the students are being
19 disregarded and it's purely about the sale.

20 Any other questions?

21 **MR. CUMMINGS:** Thank you.

22 **MR. MADZELAN:** Thank you.

23 David Ureña, Community Legal Services of
24 Philadelphia.

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

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

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

24 The first common problem we see is that

1 trade schools continue to present problems for low-
2 income students. CLS continues to see people who
3 appear to have legitimate complaints against trade
4 schools. For example, the cases that follow are
5 all from the last several years.

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

20 Tough tactics by schools to leverage money
21 from students is a common issue that we see,
22 especially by threatening to withhold a certificate
23 at the time that the training is complete. In
24 particular, such clients have come to CLS from a

1 cosmetology school. For example, Client C had been
2 told at enrollment by the cosmetology school that
3 she would only need to take one loan to finance her
4 education, but before she graduated she was forced
5 to take a second loan by the school in order to
6 complete her training.

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

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

19 Also, trade schools must be monitored to
20 determine whether they deal fairly with students on
21 payment issues. Too many students are experiencing
22 bait-and-switch tactics in which they are quoted
23 one figure as to the amount of money that they will
24 owe or have to borrow, but later are told that a

1 second much higher number is their actual cost.
2 Their completion certificates often are being held
3 hostage in these disputes. Moreover, monitoring
4 for compliance with refund terms of enrollment
5 agreement is needed.

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

16 It is not uncommon to find it exceedingly
17 difficult to find the correct address to which a
18 discharge application should be mailed. This stems
19 from the fact that many online discharge forms do
20 not contain any directions on where the discharge
21 form should be mailed to. Sometimes the
22 information regarding where to mail discharge forms
23 to provided online or over the form is errant or
24 out of date, and discharge forms may be required to

1 be mailed to a different Department office
2 depending on whether the borrower had previously
3 applied for a discharge. Even we, as knowledgeable
4 advocates, are often in the dark.

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

17 In trying to locate the client's
18 application, I was informed by the Default
19 Resolution Group that it was forwarded to the
20 Department's office in Atlanta, Georgia. I then
21 spoke to the Atlanta office representative who was
22 directly handling the client's application and was
23 informed that his application had been
24 preliminarily approved by herself. However, after

1 months of inquiries, the client's application was
2 never transferred to the Disability Discharge Loan
3 Service Center as was promised by the Atlanta
4 office representative. Ultimately, a new
5 application was sent to the Department's
6 Greenville, Texas, office. This process took
7 approximately one year.

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

13 A third issue that we commonly see is that
14 processing times of discharge forms and transfers
15 of forms between Department offices is too long. A
16 Default Resolution Group or Disability Discharge
17 Loan Servicing Center representatives often inform
18 us that an individual's application will take
19 approximately 90 to 120 days--three to four months--
20 --to first appear in their system and be processed.
21 If, for any reason, an application must be
22 transferred to a different office, this waiting
23 period may repeat itself. This often becomes
24 frustrating for borrowers and sometimes results in

1 their losing track of where their application is or
2 giving up on the discharge process entirely.

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

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

18 As the Department is well aware, the most
19 difficult stage of the disability discharge process
20 is the medical review stage. Time and time again,
21 our clients' disability discharge applications are
22 rejected due to one specific problem: a gap in
23 communication between the Department, the doctor,
24 and the borrower. In our experience, if the

1 Department does not receive what it wants from the
2 doctor, it merely follows up by sending the same
3 black supplemental information request form to the
4 doctor without feedback as to what information the
5 Department wants in addition to what the doctor has
6 already provided.

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

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

22 As an example, Client G applied for a
23 disability discharge a total of three times before
24 coming to CLS for help. For each of the past

1 applications, the client's application was denied
2 due to a medical review failure which resulted
3 because the doctor's office did not know what
4 additional information to submit to the Department.
5 The client's doctor no longer wishes to assist the
6 client with the discharge application out of
7 frustration and the client is now looking for a new
8 doctor who may be willing to help him.

9 It remains to be seen whether the new
10 discharge form helps to fix this issue.

11 Nevertheless, borrowers should be notified in
12 writing by the Department if their doctor is being
13 unresponsive or has provided insufficient
14 information and documentation to support their
15 application or allow a complete assessment to be
16 made.

17 If it is a matter of insufficient
18 information and documentation, the borrower should
19 also be informed of what additional information and
20 documentation is necessary to allow the Department
21 to completely assess the borrower's application.
22 In addition, doctors should also be informed
23 clearly in writing what additional information or
24 documentation is needed.

1 Yet another problem we see is that
2 collection agency tactics mislead and antagonize
3 borrowers to the detriment of both borrower and
4 loan holder. Collection agencies frequently convey
5 misleading and incomplete information regarding
6 options available to borrowers, leading borrowers
7 to believe their options are more limited and
8 unaffordable than they actually are. In addition,
9 agencies often employ tactics which intimidate
10 borrowers such as verbally berating borrowers,
11 contacting borrowers at irregular hours, contacting
12 borrowers' relatives, and even contacting
13 borrowers' employers.

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

22 Furthermore, collection agencies
23 frequently fail to follow Department of Education
24 regulations, especially with respect to allowing

1 low-income borrowers access to reasonable and
2 affordable repayment plans and rehabilitation
3 through reasonable and affordable payments.

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

19 Another client who came to us for
20 assistance in rehabilitating his defaulted student
21 loans we assisted, and during a conversation with
22 the lender the representative repeatedly--I'm
23 sorry, during a conversation with the collection
24 agency a representative repeatedly denied that the

1 client could rehabilitate his loans through income-
2 sensitive payments despite my citing the Department
3 regulations multiple times.

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

11 Ideally the Department should scrap the
12 use of collection agencies altogether and directly
13 handle debt collection. A benefit of doing so
14 would be having a single debt collector with
15 uniform standards and training across the board so
16 that individual representatives will have a better
17 ability to navigate an individual borrower's
18 rights. However, barring that outcome, more
19 stringent standards concerning the information
20 these agencies must convey to individual borrowers
21 should be imposed. There should also be greater
22 oversight over the collection agencies and
23 penalties to deter the agencies from misleading
24 borrowers with respect to their rights and the

1 options available to them. Finally, borrowers
2 should be better informed as to what their rights
3 are and whom they may contact to report collection
4 agency abuses.

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

22 One downside to rehabilitation for low-
23 income borrowers is that the loan payments may
24 become unaffordable upon successful rehabilitation.

1 As it stands, if a borrower rehabilitates his or
2 her loans through income-sensitive payments, once a
3 borrower has rehabilitated their defaulted student
4 loans, the required monthly payment amounts revert
5 back to 10-year standard repayment schedule. This
6 is almost always unaffordable for low-income
7 borrowers and greatly increases the risk of the
8 loans lapsing back into default, thus nullifying
9 the effects of rehabilitation, which then becomes
10 unavailable after the second default.

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

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

1 obtaining employment. Consequently, his loans
2 defaulted.

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

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

1 rehabilitation.

2 Thanks again for this opportunity.

3 **MR. MADZELAN:** Thank you.

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

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

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

17 **MR. MADZELAN:** Thank you.

18 Lauck Walton, Westwood College.

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

24 Before I get into Westwood's substantive

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

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

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

24 Current regulations call for satisfactory

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

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

23 We commend the Department for considering
24 the definition of gainful employment. This is a

1 key component of Westwood's mission. The
2 Department has a great deal of program data already
3 sorted by the CIP code. We certainly recommend
4 collecting appropriate employment information by
5 CIP code and allowing recognized accrediting
6 agencies the ability to work with the institutions
7 to evaluate those in subjective cases.

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

16 Westwood supports simplification of the
17 verification process. We think it adds credibility
18 and integrity to the award of Title IV, however,
19 pretty complicated. Heard from a number of
20 speakers today, anything we can do to simplify it
21 would be great. We'd like to get it right. The
22 easier we can get the information, if we can share
23 it with the IRS, that'd be great. If we can
24 simplify the forms, that'd be great. But if we can

1 reduce the burden on the students and the families,
2 we will have made progress.

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

18 Thank you so much for your time.

19 **MR. MADZELAN:** Thank you.

20 Theodore Levitt, Miami-Dade.

21 **MR. LEVITT:** Afternoon, everyone. I'm Ted
22 Levitt from Miami-Dade College. I am the Director
23 of College Communications there, but in my other
24 duties as assigned, I spend a good deal of time in

1 the areas of persistence and completion. And, for
2 the most part, my recommendations here are around
3 persistence and completion, but I'm really here for
4 the--primarily for the forum tomorrow, so most of
5 what I have to say I can hold for the forum there,
6 but I have a couple of other things I'd like to
7 address.

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

18 And what the institution tries to do,
19 particularly around persistence and completion, but
20 as an entity in the community, our effort is to be
21 in the fabric of the community, and the community
22 depends on community colleges across the country.
23 And the population of students that attend, as most
24 everybody knows, in our case, we are big and our

1 door is open to the community. We have over 70,000
2 credit students and 170,000 students overall at 8
3 campuses. And with a bow to Phoenix and probably
4 several others, we are the largest place-bound
5 institution in the country.

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

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

24 The state funding, as everybody knows, is

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

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

20 And I want to make reference to
21 communication that was sent to Secretary Duncan and
22 to Under Secretary Kanter about a platform that
23 we've come in contact with, that's active in several
24 states, that integrates personal information, tax

1 information, and then distributes it electronically
2 to a range of state and federal benefits, and
3 exports the information to the FAFSA, simplifying
4 the FAFSA. And I believe at some point later in
5 the day, someone is going to make some presentation
6 on that kind of an operation, on that kind of a
7 platform.

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

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

15 Harrison Wadsworth, International
16 Education Council.

17 **MR. WADSWORTH:** Thanks very much. My name
18 is Harrison Wadsworth. I'm Executive Director of
19 the International Education Council (IEC), a non-
20 profit association of the international
21 institutions who participate in the Federal Family
22 Education Loan Program. And we thank you for this
23 opportunity to offer suggestions for streamlining
24 the process for international study, while

1 maintaining the necessary safeguards to avoid fraud
2 and abuse.

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

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

19 On June 10, 2009, the House of
20 Representatives approved the Senator Paul Simon
21 Study Abroad Foundation Act as part of the
22 Formulations Authorization Act for Fiscal Years
23 2010 and 2011. This bill is intended to establish
24 an innovative public-private partnership to create

1 a more globally informed American citizenry.

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

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

20 As you know, the foreign school loan
21 default rate is extremely low: 2.2 percent for the
22 2007 cohort, there's a draft rate--that's the draft
23 rate, and that's the lowest of any category of
24 institutions and far lower than the 6.9 percent

1 overall rate. Clearly, students at foreign schools
2 are doing well and deserve to have the support they
3 need to finance their education.

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

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

19 IEC has been an effective advocate for
20 foreign schools in Washington for a number of
21 years, and we encourage the Department to approve
22 IEC and foreign school representatives as
23 participants in the Negotiated Rulemaking Committee
24 on foreign school issues.

1 IEC has some specific proposals for the
2 negotiation that I'm going to go into now. First,
3 regarding distance learning, technology has become
4 an integral part of all aspects of higher
5 education. There are few programs available to
6 students that do not use some form of online
7 communication or learning. While we appreciate the
8 Secretary's goal of encouraging students to
9 experience foreign cultures through residence
10 abroad, we feel that some students meeting that
11 expectation are being unfairly restricted in their
12 educational goals by the prohibition on taking any
13 distance education coursework within a program of
14 study at a foreign school.

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

22 Financial and compliance audit
23 requirements is the second area I wanted to raise
24 and propose for the agenda. The Higher Education

1 Opportunity Act allows the Secretary to waive
2 financial and compliance audit requirements for
3 international institutions participating in the
4 Federal Family Education Loan Program whose loan
5 volume per year is less than \$500,000, and to
6 modify the requirements for schools with more loan
7 volume. These audits can be extremely costly to
8 obtain on an annual basis: \$100,000 or more for
9 the financial audit and, as was mentioned earlier,
10 \$10,000 to \$15,000 for the annual compliance audit.

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

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

22 Waive the requirement for annual
23 compliance audits for foreign schools with less
24 than \$1 million in loan volume or require that the

1 audits be submitted less often, such as every 5
2 years. And modify the requirement for financial
3 audits so that institutions of any size are
4 permitted to submit an audit that is done according
5 to their home country's accounting standards. And
6 that last is, of course, critical to continue
7 participation of foreign schools in many countries
8 around the world.

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

20 Turning to medical school eligibility,
21 changes were made to the rules regarding the
22 eligibility of foreign medical schools for loan
23 programs. These changes include increasing the
24 required passage rates for students who take the

1 U.S. Medical Licensing Examination and modifying
2 the rules regarding the establishment of a clinical
3 training program in the United States. We also
4 expect that a study by the ECFMG may be available
5 for review by the time these negotiations commence
6 sometime in September or whenever that may be.

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

22 Nursing schools. Foreign nursing schools
23 are permitted to be eligible for participation in
24 the Federal Loan Program subject to certain

1 conditions. The exact parameters of these
2 conditions should clearly be a topic for
3 negotiation. And of concern is the possibility
4 that some currently eligible schools may lose their
5 eligibility, and that clearly ought to be a topic
6 for discussion.

7 Finally, the last topic I'll want to raise
8 for now is future changes to the Federal Loan
9 Programs. The Obama Administration has proposed
10 major changes to the student loan programs in the
11 budget for Fiscal Year 2010. We know that Congress
12 is currently in the process of considering
13 legislation that could adopt some of these
14 proposals, including requiring that all student and
15 PLUS loans be originated via the Ford Direct Loan
16 Program, as of July 1, 2010. If Congress acts
17 before the completion of this Negotiated
18 Rulemaking, we ask that that committee agenda be
19 modified to include regulatory changes that will
20 permit continued participation of foreign schools
21 in the loan programs. As you know, currently,
22 foreign schools are only permitted to participate
23 in the FFEL Program, and so they need eligibility
24 yet to--legislative issue to make them eligible for

1 the Direct Loan Program. There will be a number of
2 administrative issues, though, involved in allowing
3 them to be able to participate.

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

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

22 **MR. MADZELAN:** Thanks, Harrison.

23 Pauline Abernathy, the Institute for
24 College Access and Success.

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

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

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

24 Although no school is required to verify

1 more than 30 percent of its applicants, some
2 schools verify 100 percent. While this practice
3 may reflect genuine concerns about compliance and
4 stewardship, an extensive process can reduce access
5 to needed aid and reduce a student's odds of
6 academic success. We encourage the Department to
7 consider both the extent and processes of
8 verification used by colleges and look at ways to
9 reduce the burden on both students and schools
10 while still protecting program integrity.

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

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

21 The Department currently requires colleges
22 to provide a wide range of financial aid
23 information to current and prospective students.
24 However, despite the large number of required

1 exposures throughout the aid process, the timing,
2 volume, and content of all this information is not
3 necessarily helpful to parents and students. We
4 urge the Department to review all of these
5 requirements with the goal of providing the
6 information students and parents really need to
7 make informed decisions, and doing so in a truly
8 consumer-friendly way.

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

18 We also encourage the Department, also, to
19 develop recommendations to approve financial aid
20 award letters, so recipients can easily compare the
21 cost of attending different colleges. We have
22 analyzed more than 100 award letters and too many
23 do not provide the basic information students and
24 parents need to understand and compare their

1 financial aid options. For example, some aid award
2 letters don't include the entire cost of attendance
3 or don't clearly distinguish gift aid from loans, or
4 federal student loans, from non-federal private
5 loans.

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

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

24 Although we strongly support legislation

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

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

19 We appreciate the Department's efforts to
20 ensure that the new IBR and Public Service Loan
21 Forgiveness Programs function as Congress intended.
22 However, there are a few areas of the regulations
23 still that need to be addressed to fulfill this
24 objective.

1 One, to avoid penalizing borrowers who
2 enroll in IBR and later decide to leave the
3 program, we encourage the Department to revisit the
4 regulatory language to ensure that individuals
5 leaving IBR will not pay more than they would have
6 under a standard 10-year plan and will not be
7 forced to repay their loans in less than a 5-year
8 payment period as prohibited by statute. This will
9 remove an unfair penalty for borrowers who enroll
10 in the IBR program and later need to exit. It will
11 also remove an unnecessary administrative burden by
12 simplifying the process of enrolling in repayment
13 plans upon exiting IBR.

14 We also encourage the Department to
15 simplify and remove the inequity in the definition
16 of full-time employment for public service loan
17 forgiveness. The CCRAA defines a public service
18 job specifically as a full-time job, but does not
19 define "full-time." In its final regulations
20 governing the program, the Department defined full-
21 time as the greater of an annual average of at
22 least 30 hours or the number of hours the employer
23 considers full-time. This dual definition creates
24 both unnecessary administrative complexity and

1 inequity for individuals whose employers consider
2 full-time to be more than 30 hours. Borrowers will
3 have to submit proof of their employers' definition
4 of full-time and the Department will have to
5 collect and verify this information for each
6 borrower. There's no statutory language that
7 requires this dual definition. Defining full-time
8 as 30 hours per week for all applicants would
9 greatly simplify program administration and ensure
10 that all borrowers are treated equitably.

11 Our next recommendation regards confirming
12 employment and loan payment for eligibility for the
13 Public Service Loan Forgiveness Program. The
14 program is supposed to encourage people to serve
15 their country and community in government and non-
16 profit jobs. However, the final rules published by
17 the Department do not provide a mechanism for our
18 borrowers to find out up front if a particular job
19 will count. Instead, the rules require borrowers
20 to fully document 10 or more years of employment
21 and loan payment history, and then submit it to the
22 Department after the fact. This is an unreasonable
23 burden on borrowers and undermines the purpose of
24 Public Service Loan Forgiveness.

1 Giving borrowers clear information up
2 front will provide an incentive to continue in
3 public service and ultimately meet the forgiveness
4 requirements. It will also reduce the number of
5 borrowers applying to the Department for loan
6 forgiveness before it is appropriate.

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

17 To ensure that IBR is an avenue to
18 rehabilitation, as CLS--Community Legal Services--
19 just testified, the same rights for borrowers in
20 default that are available through the Income
21 Contingent Repayment Program should also be
22 available through income-based repayments, so that
23 IBR's affordable payments can provide an avenue to
24 rehabilitation.

1 Finally, we recommend the Department
2 provide technical assistance to schools on cohort
3 default rates. Our research has revealed that some
4 colleges do not participate in the Federal Student
5 Loan Program out of fear that their cohort default
6 rate would be, or appear to be, high. In fact,
7 almost a quarter of all community colleges
8 enrolling at least 1 million students do not
9 participate in the Federal Loan Programs, forcing
10 needy students to resort to riskier, more expensive
11 options such as private student loans and credit
12 cards.

13 We understand the Department plans to
14 change the way cohort default rates are displayed
15 to address the fear of appearing to be subject to
16 sanctions beginning with the Fiscal Year 2007
17 cohort default rates. This would be a significant
18 step towards ensuring all students have access to
19 federal student loans. We recommend that the
20 Department also provide technical assistance to
21 schools that are close to the minimum sanction
22 levels and working to lower their default rates, as
23 well as to community colleges interested in
24 learning more about the rules.

1 Thank you for the opportunity to provide
2 input today.

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

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

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

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

22 We do direct representation work, mostly
23 through Legal Aid offices near where our office is,
24 which is in Boston. We have a website that has

1 general information. It's really meant to be self-
2 help information to help fill in the gap in
3 resources for borrowers. And then we also have a
4 LISTSERV with most of the legal aid lawyers that
5 are out there that actually handle student loan
6 cases, government lawyers, private lawyers. And we
7 do case consultations with those lawyers on a
8 regular basis, so we hear from them and consult
9 with them on their cases as well.

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

19 I wanted--even though I have a number of
20 issues I want to focus on program integrity and
21 then mention just a couple of other issues. And
22 really, coming from--sort of speaking for my
23 clients here, I wish that my clients could be here.
24 I wish that more borrowers could come and speak.

1 We, frankly, don't have the resources to bring them
2 and it's very difficult for them to come here. I
3 hope that there is a way, perhaps, that the
4 Department can speak to more borrowers in some sort
5 of other forum and hear their voices.

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

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

1 their student loans.

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

13 So, one of the recommendations connected
14 to that, clearly, in our recommendations is to
15 focus on outcome data to figure out a way to, first
16 of all, make information about job placement and
17 salaries more transparent. And we did a report a
18 few years ago--and we've done this in other
19 situations where we've had testers basically go--not
20 to sign up for schools, but just to get, you know--
21 see if we can get the information about completion
22 rates and job placement rates. In most cases, we
23 were unable to get--our testers were unable to get
24 information. I would think that transparency

1 should be, hopefully, the least controversial topic
2 of all the topics here, that borrowers should be
3 given information about the outcome data.

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

11 Otherwise, what we run into is a really
12 haphazard picture where people are given random
13 information. I put some information in our
14 testimony. Just as one example, this is a client I
15 recently had who signed up for a beauty school and
16 instead of being given average salary information
17 for students who had attended that school, she was
18 given a packet of information about the kinds of
19 salaries that certain hairdressers make. There was
20 an article about Julia Roberts' hairdresser. You
21 know, there was an article about \$300 haircuts.
22 And my sense is, I'm not completely well-versed in
23 the hairdressing field, but that those are the
24 outliers, generally, in terms of the salaries that

1 people make. So it's an effort to give some salary
2 information, but what I'd like to see is
3 standardization.

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

18 So, we mentioned some other issues in our
19 testimony that I won't get into here that we support
20 looking into, including incentive compensation.
21 The high school diploma issue, interestingly, we
22 agree with the idea of defining it in a
23 standardized way. We also would like to have the
24 Department consider having admission requirements

1 beyond a high school diploma, requirements that are
2 tied to particular fields, so that, hopefully, we
3 can sort of help address the problem of borrowers
4 who are not able to benefit, but who do have high
5 school diplomas, are sort of not admitted
6 improperly to schools.

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

19 We find--I could give you example after
20 example and I won't do that now, although I will say
21 that I did alert a number of Department staff
22 recently to an experience that I had. This is, you
23 know, me calling on behalf of my client to a
24 private collection agency that is contracted with a

1 number of guarantee agencies as well as with the
2 Department, that after they--a representative hung
3 up on me the second time, you know, I'd had it. And
4 I was really--I was just calling to help figure out
5 whether we could set up a repayment plan in lieu of
6 a hearing for my client. And I know it's not
7 something that I relish doing, having to deal with
8 the initial sort of reactions I get from collection
9 agencies, but I can handle it much better than my
10 clients can, and most clients don't have
11 representation.

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

18 The other--we'd like to see really--if I
19 could say there's one thing I've learned from
20 working with clients over the years, for the
21 federal student loans there is almost always
22 something that we can do for most of our clients,
23 but the communication is the biggest barrier. And
24 actually being able to assert their rights is the

1 biggest barrier, getting them to learn about their
2 rights and being able to get them to exercise those
3 rights.

4 The other two points, the non-program
5 integrity points that we mention in our testimony,
6 is to revisit some of the fair hearing procedures
7 for the various collection actions. Standardize
8 them so that, for example, for wage garnishment,
9 your borrowers are specifically allowed to raise
10 hardship as a defense. However, if they want to
11 request a hearing in response to offset, sometimes
12 hardship is considered and sometimes it's not. So,
13 basically, we want to see that standardized in the
14 regulations so that regardless of the type of
15 collection action, borrowers have the same rights.

16 And the last issue--which, again, the
17 community legal services David mentioned very
18 eloquently, so I'll just mention briefly--which is
19 rehabilitation. We did, I know, in the last
20 session of Negotiated Rulemaking addressed some
21 rehabilitation issues and there are some issues I
22 think perhaps need statutory amendment, but we
23 believe there are some that can be addressed
24 through regulations. And I also understand that

1 perhaps legislatively there might be a solution to
2 the current problem with there being no buyers for
3 rehabilitation. But we also feel like, you know,
4 we'll see and if it's not addressed through
5 legislations, that that is something that can be
6 addressed through the regulatory process. It
7 really is a travesty that there's all of these
8 borrowers who've successfully rehabilitated their
9 loans are really stuck in limbo through no fault of
10 their own, through the credit conditions, and we'd
11 like to see them get back on their feet
12 financially.

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

1 haphazard process in that situation.

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

5 **MR. MADZELAN:** Thank you.

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

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

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

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

19 AEI North America's role is to promote a
20 greater awareness of the quality of Australian
21 education and to assist American and Australian
22 institutions in the development of relationships
23 that may include one or all of student mobility,
24 faculty interchange, and research linkages.

1 AEI North America appreciates the
2 opportunity to testify on behalf of Australian
3 universities and in consultation with the British
4 Council, the Embassy of Canada, and the Embassy of
5 New Zealand, who have all attended these hearings
6 today.

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

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

23 American students who have undertaken an
24 Australian education experience, similar to their

1 Australian counterparts who have studied in
2 America, represent a pool of knowledge about each
3 country that underpins the Australia-America
4 bilateral relationship and often promotes
5 educational research, commercial or people-to-
6 people linkages that continue throughout their
7 lives.

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

23 AEI North America encourages the U.S.
24 Department of Education to ensure that American

1 students wishing to study overseas continue to have
2 access to loans under all Federal Student Loan
3 Programs. Approximately 21,000 American students
4 are enrolled in full-time, full-degree
5 undergraduate and postgraduate programs at
6 international universities of which 2,409 are
7 enrolled in Australian institutions--or were
8 enrolled in Australian institutions in 2008.

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

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

24 In addition, the Direct Loan Program uses

1 the common origination and disbursement system to
2 originate and disburse student loans. Given that
3 international institutions are not familiar with
4 this system, we encourage the U.S. Department of
5 Education to provide support to international
6 universities to ensure a smooth transition to the
7 new system and uninterrupted access to loans to
8 those American students already studying overseas
9 and to new students for whom the overseas study
10 option represents the greatest academic and
11 research return.

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

24 AEI North America appreciates the

1 Department of Education's consideration of this
2 testimony and we would be very happy to follow up
3 with the Department on these and other issues
4 raised through the Negotiated Rulemaking process.

5 Thank you very much.

6 **MR. MADZELAN:** Thank you.

7 Tom Netting, HEAHL Coalition.

8 **MR. NETTING:** Good afternoon.

9 **MR. MADZELAN:** Hello.

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

22 This afternoon I'm here representing the
23 Higher Education Allied Health Leaders (HEAHL)
24 Coalition, one of the organizations in Washington,

1 D.C., that represents the interests specific to the
2 proprietary institutions of higher education
3 offering allied health-related education and
4 training.

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

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

18 Even more importantly, HEAHL and its
19 membership share in the belief that through the
20 process like this addition of Negotiated
21 Rulemaking, that we must make sure that potential
22 students have choice and access to the information
23 which will enable them to choose the best
24 educational program to meet their individual

1 educational needs. Not surprisingly, HEAHL and its
2 membership believe that the best way for students
3 and taxpayers alike to achieve these choices is not
4 to pigeonhole them into programs or specific
5 educational tracks, but to provide students with
6 the broadest array of academic choices upon which
7 for them to make their own individual decisions.

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

20 These expectations must be based upon
21 reliable placement data and verification of the
22 ability of the graduates to meet the workforce
23 demands of employers. HEAHL can assure you that
24 our membership has the capacity and the capability

1 to assist the President and the administration in
2 their pursuit of these goals as long as we are not
3 limited or prohibited from doing so. To that end,
4 HEAHL is looking forward to partnering with the
5 Department and the administration in the
6 development of regulations through this process and
7 in broader public policy discussions and subsequent
8 negotiations to ensure that the regulations help
9 achieve these intended goals.

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

18 One, the inclusion of cohort default rate
19 appeals as a portion of this round of Negotiated
20 Rulemaking. As stated earlier by myself and
21 others, there is significant concerns with regard
22 to the economy and with regard to employment rates
23 and the ability for individuals to find qualified
24 employment right now as well as the collapse of the

1 lending markets that are going to lead to problems
2 with cohort default rates. We would urge the
3 Department to consider once again reviewing
4 possible economic and other appeals rights under
5 cohort default rates.

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

21 As previously noted, professional judgment
22 and the ability of institutions to help prevent
23 borrowers from borrowing beyond their needs has
24 been discussed on a considerable basis today. We

1 echo the sentiments of a number of individuals and
2 their presentations earlier today.

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

15 Thank you.

16 **MR. MADZELAN:** Thanks, Tom.

17 Well, we are scheduled to take a break in
18 about 5 minutes or so, so why don't we do that now
19 and still come back at 2:40? That will give you a
20 little bit more than a 10-minute break. See you at
21 2:40.

22 [Brief recess.]

23 **MR. MADZELAN:** Okay. We'll reconvene this
24 afternoon with Albert Gray, ACICS.

1 Did you leave a copy out front, too?

2 Okay.

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

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

18 ACICS represents quality assurance and
19 institutional integrity for nearly 600,000 students
20 in 46 states who are enrolled in approximately 760
21 institutions around the country that are accredited
22 by ACICS. We're recognized by the Department of
23 Education as well as by the Council on Higher
24 Education Accreditations.

1 We have substantial resources to support
2 in a very robust manner our high-quality
3 accreditation programs. Those resources include a
4 professional staff of over 37, headquartered in
5 Washington, D.C., working with over an \$8 million
6 budget to accomplish our objectives. But more
7 importantly, we work with over 750 professional
8 educators, people who work in the education
9 business and who act in a role of what we call
10 evaluators for purposes of accrediting programs and
11 institutions for ACICS. Those are highly trained
12 professionals and practicing educators. And
13 interestingly, they not only serve ACICS, but many
14 of them are involved in accreditation roles in
15 other accrediting organizations such as some of the
16 regional accrediting organizations. So it's a
17 significant resource, but a resource that's cross-
18 trained and that works broadly in the accreditation
19 world.

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

22 We clearly support the Department's
23 interest in clarifying rules that balance and
24 protect the interest of the taxpayer, students, and

1 proprietors of career education. Our particular
2 interests are with three issues at least today that
3 we want to talk about by the Department and would
4 like to review with the Department and with
5 postsecondary education stakeholders in this
6 audience. Those three being: satisfactory
7 academic progress, gainful employment in a
8 recognized occupational field, and institutional
9 integrity in states that lack licensing authority
10 for career colleges.

11 Let me start by talking about satisfactory
12 academic process. This is an area where you should
13 be considering the role of national accreditation.
14 ACICS accreditation assures continuously improving
15 quality of career college educators. Now, as I
16 said, I come out of a history of accreditation,
17 some very strong programs that were very sensitive
18 to public health and educational issues. And I
19 realize, as does ACICS, that accreditation is
20 really a three-legged stool. It's provision of
21 standards and monitoring compliance with standards;
22 it's providing quality assurance, and this is an
23 equally important aspect; and then, of course,
24 accountability for the educational provider to the

1 community and to the students. In that regard, ACS
2 enforces clear, rigorous, quantitative standards to
3 ensure that the contact between faculty and student
4 is of sufficient duration and quality to produce a
5 quality educational outcome.

6 At this point, I was going to read our
7 126-page set of criteria into the record, but I
8 decided that would be too exciting for this group.

9 [Laughter.]

10 **MR. GRAY:** But in all seriousness, the
11 standards apply to all aspects of the educational
12 program. And keep in mind, we are accrediting
13 programs ranging from certificate, diploma, two-
14 year degree, four-year bachelor's degree, and
15 master's degrees. So these standards have to be
16 very closely tailored to the actual needs that go
17 with providing proper education at those various
18 degree levels. These standards apply to such
19 things as lecture format, demonstrations,
20 laboratories, externships for the students, and
21 mixed modes of delivery of education--distance
22 education, on-ground education. The standards are
23 applied routinely through on-site audits. And any
24 institutions that don't comply go through

1 sanctions. Ultimately, of course, if they can't
2 come up to the accreditation standard,
3 accreditation would be denied or withdrawn.

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

16 Now let me turn to the second area that we
17 want to just provide some brief comments on, and
18 that is defining gainful employment. Again,
19 national accreditation is key here. We don't
20 believe that it's necessary to have standards by
21 regulation. Rather, by enforcing strong standards
22 and requirements through accreditation, we can
23 ensure outcomes, and we currently do at ACICS and
24 national accreditation encourage outcomes that lead

1 to job placement in fields directly related to the
2 course of study. We require at ACS mandatory
3 reporting of all annual job placement rates for all
4 institutions, documentation that will withstand
5 audit scrutiny, and enforcement and sanctions in
6 the event placement rates would fall below these
7 ACICS standards.

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

17 Thirdly, let me talk about institutional
18 integrity where there are not licensing authority
19 in the states at the present time. ACS is proud of
20 its strong ongoing relationship with the state
21 regulatory interests in California, which, as you
22 know, at this point does not have state oversight
23 and licensing authority for career colleges,
24 although there is a bill to bring that about.

1 During that timeframe where such oversight does not
2 exist, ACS has continued to work to enforce high
3 standards and work closely with the California
4 regulatory agencies in that regard. ACICS has
5 required all of its accredited institutions in
6 California to voluntarily comply with the standards
7 of the expired Vocational Education Act. So even
8 though the act has expired, the standards, in our
9 view, are still appropriate standards and we work
10 closely with the state of California in making sure
11 our accredited institutions comply with those as a
12 minimum standard.

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

17 In closing, I'll just bring up one more
18 subject which is, we think, very important, near
19 and dear to our hearts in the national
20 accreditation world. I'll reiterate, because we've
21 spoken about this before, the importance of ACICS--
22 or the importance to ACICS of a focus by the
23 Department of Education on the ability of students
24 to transfer academic credit in order to complete

1 their studies at another institution if they wish
2 to do so.

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

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

19 **MR. MADZELAN:** Thank you.

20 Irv Ackelsberg?

21 **MR. ACKELSBURG:** Thank you. My name's Irv
22 Ackelsberg, and I'm a consumer lawyer in
23 Philadelphia. I've been specializing in consumer
24 protection for my entire career, most of which was

1 spent during my 30 years with Community Legal
2 Services, the publicly funded civil aid
3 organization that you've already heard from earlier
4 this afternoon.

5 During the last seven or eight years with
6 CLS, I was primarily immersed in protecting low-
7 income communities from subprime mortgage brokers
8 and lenders who were prospecting for home equity.
9 We've certainly heard a lot about them recently.
10 But before the subprime mortgage scandal, in the
11 1990s, my main professional focus was the on
12 previous consumer fraud pandemic, the one wrought
13 by proprietary trade schools. During those years,
14 I represented hundreds of financially abused
15 individuals, who, having sought the dream of
16 bettering themselves and finding good-paying,
17 satisfying work and trusting the promises of
18 federally financed quality education, signed trade
19 school enrollment agreements only to find
20 themselves at the end without work and burdened
21 with hopelessly unaffordable and non-dischargeable
22 student loan obligations.

23 The financial aid reforms that eventually
24 emerged following that last fraud pandemic did,

1 like today, in the aftermath of many investigations
2 and corporate bankruptcies, help some. The rules
3 against commissioned salespeople, the 90/10 Rule,
4 and especially the default triggers for financial
5 aid decertification all provided consumers and the
6 taxpayers with some measure of protection from the
7 proprietary trade school industry. But the risks
8 to both consumers and taxpayers remain very much in
9 play.

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

24 The first of these concerns the

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

18 So, as the Department learned in the
19 1990s, it cannot assume that the accrediting side
20 or the regulatory structure will deal with this.
21 We need better detection devices and tougher
22 compliance consequences in the financial aid system
23 to address this problem.

24 The second issue I want to mention is the

1 growing importance of private, subprime student
2 loans in the business model of the trade schools.
3 This was alluded to in earlier testimony this
4 afternoon. While you do not regulate the private
5 loans, you must become aware of the ways in which
6 the federal system is used to facilitate widespread
7 financial aid abuse of students.

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

22 In response to the mother's explicit
23 questions about interest rates, the financial aid
24 officer said she didn't know, but encouraged them

1 not to be concerned. By the time her son enrolled,
2 details concerning the private loan were still
3 unknown and still undisclosed. When the disclosure
4 from the private lender finally arrived, her son
5 was already in attendance at the school. She was
6 shocked to learn that the \$17,000 private school
7 loan carried an adjustable rate starting at 16
8 percent.

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

16 While these subprime private loans are
17 themselves outside the Department's regulatory
18 control, the Department can and must do something
19 to require all financial aid packages, if they
20 include federal assistance, to be fully disclosed
21 prior to enrollment, including the contemplated
22 terms of any private loan in the package.
23 Moreover, there should be a right to cancel any
24 enrollment partially financed by federal aid until

1 after full disclosure is provided.

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

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

1 referee among unequals.

2 Thank you.

3 **MR. MADZELAN:** Thanks.

4 Michael Golden, Solutions for Progress.

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

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

17 It has been said that the less time
18 students spend slinging hamburgers means more time
19 for classes and study. It means they complete
20 their education sooner and are eligible for better
21 jobs. It means they move their families up the
22 ladder from sustainability to successful economic
23 integration. I won't spent too much time in
24 describing where students find themselves

1 currently, but it is worth spending a quick moment
2 just to review that.

3 A typical community college student, the
4 average age is 24. Forty-seven percent are under
5 24; 35 percent are over 30. Fifty-nine percent are
6 women. Sixty-one percent are independent--
7 classified as financially independent. Eighty
8 percent work while enrolled and work on average 32
9 hours per week. Twenty-six percent of students are
10 at or below 125 percent of the federal poverty
11 level. Forty-seven percent receive some financial
12 aid, mainly grants. Thirty percent have dependent
13 children. And two-thirds are part-time students.

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

1 children; and child care subsidies.

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

14 A typical student, for example, may have
15 income roughly of \$14,000 a year at a low-wage job.
16 She faces rent, food, transportation, health care,
17 child care, and taxes--costs that we have estimated
18 for this student at more than \$19,000, an immediate
19 deficit of \$5,000 before schooling costs can even
20 come into account. The educational institutions do
21 their best to help, of course, but there is
22 currently very little they can do to connect their
23 students with these benefits. It's difficult
24 enough for them just to verify FAFSA information so

1 these students can receive Pell Grants and other
2 financial aid assistance. But they cannot work
3 around the inevitable delays of paperwork much less
4 bypass the silos in the work support system. But
5 making FAFSA easier and getting these work supports
6 would be two important benefits for these students,
7 substantially aiding them in completing their
8 educations.

9 We believe that integrating FAFSA, tax
10 filing, and access to nutrition and health benefits
11 with the college registration process will
12 significantly increase both persistence and
13 completion for students by substantially increasing
14 the resources they use to pay for school and to
15 support their families while enrolled. That's why
16 we created the Benefit Bank, a web-based platform
17 service that helps low- and moderate-income people
18 file their taxes, file for FAFSA, and maximize
19 their tax credits and other work supports through
20 an expert system. We estimate that this same
21 student, if she receives the benefits for which she
22 is currently eligible, can dramatically improve her
23 ability to persist and complete her education by
24 increasing her economic resources dramatically.

1 For the case above, the student begins
2 with about \$14,000 in gross income. She will be
3 eligible for the Earned Income Tax Credit, a cash
4 value for her of approximately \$4,000. In
5 addition, she is eligible for SNAP with a value of
6 about another \$4,000; health care for herself and
7 her children, an actuarial value of about \$3,000,
8 but a significant emotional and financial risk
9 benefit; and child care subsidies of about \$4,000.
10 She may also be eligible for low-income heating and
11 energy assistance, state tax credits, and others,
12 but this is just an example.

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

20 Integration of these functions will bypass
21 the silos that exist currently in ways that allow
22 institutions to be more efficient with their own
23 resources while helping their students more. In
24 the benefit bank, for instance, once a student has

1 completed his or her taxes, which are then filed
2 electronically, the information that's already been
3 entered and gathered will be transferred directly
4 over into the FAFSA form. The expert system can
5 then raise to the surface whatever information is
6 still missing. And then once that information is
7 completed, can file FAFSA electronically, reducing
8 errors while increasing speed and confirming that
9 the information is the same as that that was filed
10 with the Internal Revenue Service, eliminating the
11 verification issue.

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

21 It will increase the resources available
22 to their students, both educational resources
23 through FAFSA, but also other resources for
24 themselves and their children that make them more

1 stable. They'll reduce the amount of debt they
2 carry to complete their education. They will
3 virtually eliminate the substantial risk of
4 catastrophic debt often related to health care
5 costs. And they'll be able to spend more time in
6 classes and studying, performing better in their
7 classes, and completing their educations sooner.
8 In short, technological integration will result in
9 efficiencies for the community colleges in
10 providing financial aid; will increase student
11 persistence; will enable them to more rapidly
12 compete--complete their educations. The community
13 colleges will increase their success rate where it
14 counts: raising generations out of poverty through
15 education.

16 Thank you.

17 **MR. MADZELAN:** Thank you.

18 Mary Catherine Scarborough, British
19 Council.

20 **MS. SCARBOROUGH:** Good afternoon. My name
21 is Mary Catherine Scarborough and I work for the
22 British Council. We're the United Kingdom's
23 international organization for educational and
24 cultural relations. In the United States, we

1 increase the availability and quality of resources
2 for students interested in study abroad,
3 undergraduate and postgraduate degrees at U.K.
4 universities. We also serve as the Cultural
5 Department for the British Embassy in Washington,
6 D.C.

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

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

20 Currently, foreign institutions are
21 eligible to apply for participation in the Federal
22 Family Education Loan--FFEL--Program. The
23 potential discontinuation of FFEL, allowing
24 American students access to federal aid while

1 enrolled at foreign institutions, would limit the
2 ability of Americans to experience full-degree
3 international education. According to the U.K.'s
4 Higher Education Statistical Agency, HESA, in 2007-
5 2008, 12,800 American students studied at U.K.
6 universities for undergraduate and postgraduate
7 education.

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

17 Thank you for your time and consideration.

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

19 **MR. COLLINS:** Good afternoon. My name is
20 Bob Collins. I'm the Vice President of Student
21 Financial Aid for the Apollo Group. I've been an
22 active financial aid professional for over 28
23 years. I've been with the Apollo Group since 2000,
24 March of 2000.

1 I provided earlier testimony in Denver,
2 which I submitted in writing today. My comments
3 are scribbled on this piece of paper.

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

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

23 Today you heard many of the same tired
24 accusations against the University of Phoenix that

1 make great headlines, but are lacking in factual
2 integrity. It is unfortunate that as a public
3 company many financial investors make their living
4 from shorting the Apollo Group stock. Apollo Group
5 is the parent company of the University of Phoenix.
6 But to be clear, the University of Phoenix is
7 focused on student outcomes, not on the financial
8 investors who may be trying to short Apollo stock.

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

20 Following our settlement, the Arizona
21 Private Postsecondary Education Board decided to
22 conduct their own investigation to see if the
23 contents of the 2003 Program Review Report had
24 merit. Following their exhaustive investigation,

1 the State Education Board voted unanimously to
2 dismiss the matter, finding no violation of statute
3 or rules.

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

11 The University of Phoenix student brings a
12 significant level of prior college work. The
13 University of Phoenix completion rates are
14 comparable to conventional four-year colleges and
15 universities: 27 percent of University of Phoenix
16 students graduate at associate degree level, which
17 is the same as the national rate; 38 percent of
18 University of Phoenix students graduate at
19 bachelor's level compared to 43 percent nationally;
20 and 60 percent of the University's students
21 graduate at the graduate level versus 61 percent
22 nationally. And in comparison of students who
23 enter college with risk factors that often
24 contribute to their dropping out, the University of

1 Phoenix rates of completion for bachelor's degree
2 are substantially higher than for institutions
3 overall. These rates have been verified by
4 external parties again and again.

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

14 They looked at two areas. The first one
15 was related to disbursements and, in August 2005, a
16 report was issued. The report states, "Except for
17 two areas, we concluded that University of Phoenix
18 had policies and procedures that provide reasonable
19 assurances that the institution properly makes
20 initial and subsequent disbursements to students
21 enrolled in Title IV-eligible programs." Except
22 for two areas, and those were nominal, I think
23 there were six students where we had refunded less
24 than \$20,000 back to the programs.

1 Regarding the return to Title IV, I quote,
2 this report was issued in December of 2005. The
3 OIG, "We concluded that the University of Phoenix
4 had policies and procedures that provided
5 reasonable assurance that the institution properly
6 identified withdrawn students, appropriately
7 determined whether a return to Title IV calculation
8 was required, returned Title IV funds for withdrawn
9 students in a timely manner, and used appropriately
10 methodologies for most aspects of calculating the
11 return to Title IV." For most aspects.

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

21 In February of 2004, without any notice,
22 we were heads-down. We were conducting a software
23 system enhancement, which is routine about that
24 time of year. We were preparing for the new aid

1 year regulations. We had just completed a program
2 review and out comes a 24-page "Dear Colleague"
3 letter.

4 We did our best to implement that as
5 quickly as possible in light of everything that was
6 going on, and we did. In fact, the OIG did confirm
7 that our new policies and procedures that we
8 adopted in December were compliant, in December of
9 2004, of that year. So from March 1 to December,
10 that's how long it took to implement this new
11 guidance.

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

20 Finally, I'd like to point out that the
21 University of Phoenix is here for the same reason
22 all of you are: We want to ensure that, in the
23 end, our regulatory processes are fair and balanced
24 for all types of institutions and, most

1 importantly, that they serve the students who
2 should be able to attend the schools that best meet
3 their needs.

4 Thank you.

5 **MR. MADZELAN:** Thank you.

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

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

17 [Recess.]

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

23 Thanks to all who participated.

24

1 [Whereupon, at 4:00 p.m., the hearing was
2 adjourned.]