

ENSURING STUDENT ELIGIBILITY REQUIREMENTS FOR FEDERAL AID

HEARING

BEFORE THE

SUBCOMMITTEE ON HIGHER EDUCATION,
LIFELONG LEARNING, AND COMPETITIVENESS

COMMITTEE ON

EDUCATION AND LABOR

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ENSURING STUDENT ELIGIBILITY REQUIREMENTS FOR FEDERAL AID

**Wednesday, October 14, 2009
U.S. House of Representatives
Subcommittee on Higher Education,
Lifelong Learning, and Competitiveness
Committee on Education and Labor
Washington, DC**

The subcommittee met, pursuant to call, at 10:03 a.m., in room 2175, Rayburn House Office Building, Hon. Ruben Hinojosa [chairman of the subcommittee] presiding.

Present: Representatives Hinojosa, Miller, Bishop of New York, Altmire, Courtney, Andrews, Tierney, Wu, Fudge, Polis, Guthrie, Kline and Ehlers.

Staff present: Tylease Alli, Hearing Clerk; Jeff Appel, Senior Education Policy Advisor/Investigator; Patrick Findlay, Investigative Counsel; David Hartzler, Systems Administrator; Broderick Johnson, Staff Assistant; Fred Jones, Staff Assistant, Education; Ricardo Martinez, Policy Advisor, Subcommittee on Higher Education, Lifelong Learning and Competitiveness; Alex Nock, Deputy Staff Director; Helen Pajcic, Staff Assistant; Rachel Racusen, Communications Director; Julie Radocchia, Senior Education Policy Advisor; Melissa Salmanowitz, Press Secretary; Ajita Talwalker, Education Policy Advisor; Daniel Weiss, Special Assistant to the Chairman; Mark Zuckerman, Staff Director; Stephanie Arras, Minority Legislative Assistant; Kirk Boyle, Minority General Counsel; Casey Buboltz, Minority Coalitions and Member Services Coordinator; Amy Raaf Jones, Minority Professional Staff Member; Barrett Karr, Minority Staff Director; Alexa Marrero, Minority Communications Director; Susan Ross, Minority Director of Education and Human Services Policy; and Linda Stevens, Minority Chief Clerk/Assistant to the General Counsel.

Chairman HINOJOSA. A quorum being present, the committee will now come to order.

Pursuant to the committee rules, any member may submit an opening statement in writing, which will be made part of the permanent record. I now recognize myself, followed by the ranking member, Brett Guthrie, for an opening statement.

I want to welcome my colleagues, on both sides of the aisle, to this important hearing on “Ensuring Student Eligibility Requirements for Federal Aid.”

I want to give a special welcome to Chairman George Miller for his tremendous leadership on these issues and thank him for joining us today.

As members of this committee, we have the responsibility of providing oversight of our institutions of higher learning, regardless of whether they are public, nonprofit, or part of the for-profit post-secondary education sector.

I want to thank the Government Accountability Office for the release of their report, entitled “Proprietary Schools: Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid.”

In August of 2007, I requested that GAO study the for-profit post-secondary education sector to learn more about how these institutions function and deliver educational services. I am troubled by what GAO found.

First of all, I am concerned that Congress and the Department of Education have not been providing the appropriate oversight necessary to protect students as they pursue educational opportunities at for-profit colleges and universities. We have also not done enough to monitor the quality of educational programs offered at some of these institutions, despite the growth of the for-profit sector in recent years.

As you know, for-profit colleges and universities enroll large numbers of low-income and minority students. Based on the findings of the GAO report, it is clear to me that some of these institutions have not served students well. I am particularly concerned that some for-profit institutions have engaged in a number of unscrupulous practices to increase their access to Title IV funds.

In some cases, officials from for-profit-sector institutions, assisted students in obtaining invalid high school diplomas from diploma mills in order to gain access to federal loans. In another case that I read, the GAO found that there were irregularities in the administration of the ability to benefit, known as the ATB tests, such as providing students with the answers to the test questions so that students would meet the minimum eligibility requirements for Title IV programs.

Encouraging students who do not possess a high school diploma to incur an inordinate amount of student loan debt and to pursue a course of academic study that they are unprepared for does a disservice to those students.

The GAO report is a great starting point for today’s congressional hearing, and I hope that we can have a robust discussion and learn more about these issues from our distinguished witnesses.

Thank you. I now yield to my friend, Ranking Member Brett Guthrie.

[The statement of Mr. Hinojosa follows:]

Prepared Statement of Hon. Rubén Hinojosa, Chairman, Subcommittee on Higher Education, Lifelong Learning, and Competitiveness

I want to welcome my colleagues, on both sides of the aisle, to this important hearing on “Ensuring student eligibility requirements for federal aid.”

I want to give a special welcome to Chairman Miller for his tremendous leadership on these issues and thank him for joining us today.

As members of this Committee, we have the responsibility of providing oversight of our institutions of higher learning, regardless of whether they are public, non-profit, or part of the for-profit postsecondary education sector.

I want to thank the GAO for the release of their report: "Proprietary Schools: Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid".

Earlier this year, I requested that GAO study the for-profit postsecondary education sector to learn more about how these institutions function and deliver educational services. I am troubled by what GAO found.

First of all, I am concerned that congress and the department of education have not been providing the appropriate oversight necessary to protect students as they pursue educational opportunities at for-profit colleges and universities.

We have also not done enough to monitor the quality of educational programs offered at some of these institutions despite the growth of the for-profit sector in recent years. As you know, for-profit colleges and universities enroll large numbers of low-income and minority students. Based on the findings of the GAO report, it is clear that some of these institutions have not served students well.

I am particularly concerned that some for-profit institutions have engaged in a number of unscrupulous practices to increase their access to title iv funds. In some cases, officials from for-profit sector institutions, assisted students in obtaining invalid high school diplomas from diploma mills, in order to gain access to federal loans.

In another case, the GAO found that there were irregularities in the administration of the "ability to benefit," (ATB) tests, such as providing students with the answers to the test questions, so that students would meet the minimum eligibility requirements for title iv programs.

Encouraging students who do not possess a high school diploma to incur an inordinate amount of student loan debt and to pursue a course of academic study that they are unprepared for does a disservice to students.

The GAO report is a great starting point for today's hearing, and I hope that we can have a robust discussion and learn more about these issues from our distinguished witnesses.

Thank you, I now yield to Ranking Member Guthrie.

Mr. GUTHRIE. Thank you, Mr. Chairman. Thank you for holding this hearing.

And, you know, this hearing is about how the federal government works with all institutions of higher education to ensure that student eligibility requirements for federal student aid, outlined in the Higher Education Act, are being met.

I understand that there is significant history on this topic before us, and I look forward to hearing more about the GAO study and the oversight measures that are being taken to protect students and taxpayers.

The diversity that currently exists within the American higher education system is what makes ours the best in the world. For example, this past weekend, I was pleased to participate in the commencement ceremony at Sullivan University in Louisville, Kentucky. Sullivan graduate over 650 students with associate's, bachelor's and master's degrees. The commencement ceremony reminded me of what our goals should be, that ensuring that students are well equipped for the future.

Proprietary schools like Sullivan University have a history of offering quality education to students in a variety of fields. These institutions also have a history of educating underserved populations, including those in rural and urban areas, where students have very limited options for job training.

These institutions also educate a high percentage of non-traditional college students. In fact, according to the GAO report before us, more than half the students attending proprietary schools are

over the age of 25. In addition, over half the student population is from a minority background.

Finally, in many cases, these institutions are geared toward graduating students with specific skills that will help them find jobs in a weakened economy. The competition that exists between proprietary institutions, community colleges, and 4-year public and private institutions ensures that students from all types of background have plenty of options if they choose to pursue some form of post-secondary education.

We must do all we can to ensure that all institutions—for-profit and nonprofit—and their institutional partners are following the rules outlined by the Higher Education Act.

Because I know how important post-secondary education is, in particular in this economic downturn, I was concerned by the GAO's recent findings. I strongly believe that mismanagement in testing or abuse of federal financial aid should not be taken lightly.

These cases must be addressed. And hopefully, the findings of GAO can help us determine whether there is an underlying vulnerability of the system that needs to be addressed.

One thing I hope that we will not lose sight of during the hearing is that the GAO did not find a pattern of infractions in its review. While even one incident of mismanagement or abuse is one too many, it is important to understand the scope of this issue as we work to address it.

I would also note that the GAO did not visit or review any nonprofit institutions of higher education. The student eligibility rules that we are talking about here are required of both proprietary and nonprofit institutions and, as such, should be reinforced regardless of profit status of the school.

In the interests of protecting all students, I hope we continue to work to apply federal safeguards across all sectors of higher education. Our country is facing a difficult economic time, and many are finding themselves unemployed or with an uncertain future. As we work to enhance ourselves and root out those who have broken the law, we must be vigilant about preserving and expanding a diverse array of options for students in need of additional education.

Thank you. And I yield back.

[The statement of Mr. Guthrie follows:]

Prepared Statement of Hon. Brett Guthrie, Senior Republican Member, Subcommittee on Higher Education, Lifelong Learning, and Competitiveness

Thank you Mr. Chairman.

This hearing is about how the federal government works with all institutions of higher education to ensure that the student eligibility requirements for federal student aid outlined in the Higher Education Act are being met. I understand that there is significant history on this topic before us and I look forward to hearing more about GAO's study and the oversight measures that are being taken to protect students and taxpayers.

The diversity that currently exists within the American higher education system is what makes ours the best in the world. For example, this past weekend I was pleased to participate in the commencement ceremony at Sullivan University in Louisville, Kentucky. Sullivan graduated over 650 students with Associates, Bachelors, and Masters degrees. The commencement ceremony reminded me what our goal here should be—ensuring that students are well equipped for the future.

Proprietary schools like Sullivan University have a history of offering quality educations to students in a variety of fields. These institutions also have a history of

educating underserved populations, including those in rural and urban areas where students have very limited options for job training.

These institutions also educate a high percentage of “non-traditional” college students. In fact, according to the GAO report we are here to discuss, more than half of the students attending proprietary schools are over the age of 25. In addition, over half of the student population is from a minority background.

Finally, in many cases, these institutions are also geared toward graduating students with specific skills that will help them find jobs in a weakened economy.

The competition that exists between proprietary institutions, community colleges, and 4 year public and private institutions ensures that students from all types of backgrounds have plenty of options if they choose to pursue some form of postsecondary education. We must do all that we can to ensure that all institutions, for-profit or non-profit, and their institutional partners are following the rules as outlined by the Higher Education Act.

Because I know how important postsecondary education is, particularly in the current economic downturn, I was concerned by the GAO’s recent findings. I strongly believe that mismanagement in testing or abuse of federal financial aid should not be taken lightly. These cases must be addressed, and hopefully the findings of the GAO can help us determine whether there is an underlying vulnerability of the system that needs to be addressed.

One thing I hope that we will not lose sight of during this hearing is that the GAO did not find a pattern of infractions in its review. While even one incident of mismanagement or abuse is one too many, it is important to understand the scope of this issue as we work to address it.

I would also note that the GAO did not visit or review any non-profit institutions of higher education. The student eligibility rules that we are talking about here are required of both proprietary and non-profit institutions of higher education and, as such, should be enforced regardless of the profit status of the institution. In the interest of protecting all students, I hope we continue working to apply federal safeguards across all sectors of higher education.

Our country is facing a difficult economic time, and many are finding themselves unemployed or with an uncertain future. As we work to enhance oversight and root out those who have broken the law, we must be vigilant about preserving and expanding a diverse array of options for students in need of additional education.

Thank you, and I yield back.

Chairman HINOJOSA. Thank you.

At this time, I ask unanimous consent to recognize the—I wanted to recognize the chairman of the committee of the whole, George Miller.

Would you like to have an opening statement?

Mr. MILLER OF CALIFORNIA. I will just wait until we go to questions, Mr. Chairman. Thank you for holding the hearing.

Chairman HINOJOSA. Yes, thank you.

At this time, I want to welcome all of our witnesses. But before I do that, I wish to speak to the lighting system that we have before us. For those of you who have not testified before this subcommittee, please let me explain our lighting system and the 5-minute rule.

Everyone, including members, is limited to 5 minutes of presentation or questioning. The green light is illuminated when you begin to speak. When you see the yellow light, it means you have 1 minute remaining. When you see the red light, it means your time has expired and you need to conclude your testimony.

Please be certain as you testify to turn on and speak into the microphone in front of you. We will now hear—I will now start with the introductions.

The first witness will be Mr. George Scott. He is director, education and workforce and income security issues for the United States Government Accountability Office. He is a frequent witness before our committee. He oversees the high-quality work the GAO

provides for our committee in various areas of our jurisdiction. He is a graduate of North Carolina at Chapel Hill and has received several GAO management awards. George been recognized for exemplary achievement in public administration.

Once again, we are anxious to hear from you, and welcome.

The second presenter will be Robert Shireman, who is the deputy undersecretary in the Department of Education. He is a leading expert on college access and financial aid. Prior to his appointment, he served on the Federal Advisory Committee on Student Financial Assistance. Robert has served as staff for Senator Simon. And during the Clinton administration, he served on the National Economic Council. He holds a bachelor's degree in economics from the University of California at Berkeley and a master's degree from Harvard in education, as well as the University of San Francisco in public policy.

Thank you for being with us today.

Next will be Ms. Mary Mitchelson, who is the acting inspector general, Office of Inspector General, at the Department of Education. In the year 2000, she served as assistant inspector general for analysis and inspection. And in the year 2002, she became counsel to the inspector general and has been in her current position for 13 months. She has served as a law school dean, has clerked in the U.S. district court, and has served in two federal departments, and has been recognized for her professional contributions on numerous occasions.

It is a pleasure having you here this morning.

Also, we will hear from Mr. Harris N. Miller, who was named CEO and president of the Career College Association in February 2007. Prior to his appointment, Harris was president of the Information Technology Association of America for 11 years, the leading trade association representing the I.T. industry. Mr. Harris has also served as House staff on the Judiciary Committee, as well as Senate staff as a legislative director for Senator Durkin. He also has experience working for the U.S. Office of Personnel Management. Mr. Miller has a B.A. in political science and philosophy from the University of Pittsburgh and has earned a master's in philosophy and political science from Yale.

Welcome to our hearing. And we look forward to your testimony.

With that, we are ready to begin. We call on Mr. Scott.

STATEMENT OF GEORGE A. SCOTT, DIRECTOR OF EDUCATION, WORKFORCE, AND INCOME SECURITY, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. SCOTT. Chairman Miller, Chairman Hinojosa, Ranking Member Guthrie, and members of the subcommittee, I am pleased to be here today to discuss the Department of Education's oversight of eligibility for federal student aid at for-profit schools, also known as proprietary schools.

Generally, students who do not have a high school diploma or GED are required to pass an ability to benefit, or ATB test, of basic math and English skills in order to be eligible for federal student aid. Under the ATB test program, education is responsible for overseeing test publishers, who in turn are responsible for certifying

and monitoring test administrators to ensure the proper administration of ATB tests.

Education's oversight over the ATB test program is critical to protecting students and guarding against potential fraud and abuse of federal student aid funds. My testimony today is based on work from our recent report.

In summary, we found that test administrators violated rules intended to ensure prospective students without high school diplomas pass required ATB tests before obtaining access to federal student aid. For example, when GAO analysts posing as students took and intentionally failed an ATB test at a proprietary school, the independent test administrator gave them and all the test-takers in the room answers to some of the questions.

I will pause here for a moment so that we can play the audio from our undercover visit.

[Begin audio clip.]

VOICE. So, yeah, this is correct. Give it a C. Number one on your answer sheet, that is a C. Okay, mark it in. Nice and hard so it will go through that part of the paper, people. Everybody got it?

VOICE. Number three. I personally don't like number three. I don't like they ask it of you. I don't like the way they ask it of you, so I am telling you the answer is E.

VOICE. Good news. I am going to help you with the first three. More good news. You have got to nail 10 of them to pass. Ah, I am going to give you three; that means you have got to get to nail seven.

[End audio clip.]

Mr. SCOTT. Our analysis test forms were also tampered with.

[Begin audio clip.]

VOICE. It is not D. It is not C. It is not A, so it is B. Number one is B. Thank you.

[End audio clip.]

Mr. SCOTT. Our analysis test forms were also tampered with. As you can see on the screen, their incorrect answers were crossed out and changed to correct answers to ensure that they passed the test.

Our work confirms similar findings by Education's Office of Inspector General and New York state investigators. The problems we identified result in part from weaknesses in Education's oversight of ATB testing. We found that Education had not followed up with test publishers to ensure compliance with certain requirements.

For example, as of early 2009, one of the approved test publishers had not submitted test score analyses due in 2005 and 2008 for two of its approved tests. Education officials told us that the employer responsible for test publisher oversight had retired in 2008. After that time, no one at Education had followed up with test publishers to obtain pass-through test score analyses until earlier this year in response to our review.

In 2002, Education's Office of Inspector General reported on problems with ATB testing. However, Education has done little since then to strengthen its oversight of test publishers.

We also identified cases in which recruiters at two separate proprietary schools helped prospective students obtain invalid high school diplomas so that the students could obtain federal student

loans. For example, one student told us that he was flunking out of high school, when a recruiter at the proprietary school directed him to a place where he could pay a fee to take a test and obtain a high school diploma. Based on our further review, we confirmed that the entity was a high school diploma mill.

Problems with the use of invalid high school diplomas to gain access to federal student aid are due in part to weaknesses in Education's policies and the lack of information and guidance on high school diplomas. We found that several states already provide lists of the high schools they recognize and make them available to the public on their Web sites. However, Education provides little information on these available resources that could help identify invalid high school diplomas.

In conclusion, our findings do not represent nor imply widespread problems at all proprietary schools. Many of these schools play an important role in providing a range of students the opportunity to obtain the education they need, to increase their work skills and find jobs. However, our work has identified potential fraud at a few schools and significant vulnerabilities in Education's oversight.

Education has announced steps to help address these issues, and we plan to monitor their progress in strengthening oversight in this area.

Mr. Chairman, this concludes my prepared remarks, and I would be happy to any questions you or other members of the subcommittee may have. Thank you.

[The statement of Mr. Scott follows:]

Prepared Statement of George A. Scott, Director, Education, Workforce, and Income Security, U.S. Government Accountability Office

Mr. Chairman and Members of the Subcommittee: I am pleased to be here today to discuss the Department of Education's oversight of student eligibility for federal aid at private for-profit schools, also known as proprietary schools. Education's monitoring of eligibility requirements is part of a larger oversight structure governing federal aid to students at all schools. For example, in order to receive federal aid, students must attend schools that are legally authorized to operate in a state, accredited by reliable authorities to help ensure education programs meet acceptable levels of quality, and certified by Education to participate in federal student aid programs.¹ In addition, students attending proprietary, public, or private non-profit schools are also required to demonstrate that they are ready for higher education. Generally, students who do not have a high school diploma or general equivalency diploma (GED) are required to pass an "ability to benefit" (ATB) test of basic math and English skills in order to be eligible for loans, grants, and campus-based aid under Title IV of the Higher Education Act of 1965, as amended.² Education's monitoring of ATB tests and high school diploma requirements is critical to protecting students and guarding against potential fraud and abuse of federal student aid funds. When students who do not have the skills needed to succeed in school are fraudulently given passing scores on the ATB test or directed to diploma mills for fake high school degrees, they are at greater risk of dropping out of school, incurring substantial debt, and defaulting on their federal loans. When this happens, students' credit records are tarnished and their long-term financial well-being is jeopardized. In addition, taxpayers and the government, which guarantees the loans, bear the risks associated with federal loans when a student defaults.

¹In addition to these requirements for all schools, proprietary schools must also comply with the 90/10 rule, which provides that these schools may not receive more than 90 percent of their revenue from federal student aid grants and loans.

²While there are other ways a student without a high school diploma or GED can establish eligibility, for the purposes of our testimony we focus on whether a student has passed an independently administered ATB test.

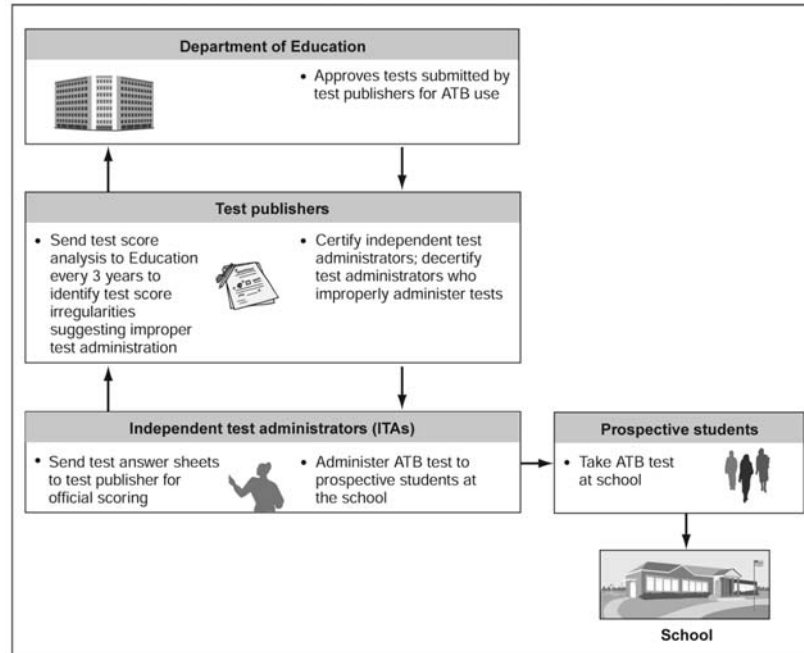
Today I will discuss the extent to which Education's policies and procedures for monitoring eligibility requirements for federal aid at proprietary schools protect students and the investment of Title IV funds. This testimony is based on a GAO report that we released on September 21, 2009, titled *Proprietary Schools: Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid*.³ To address Education's monitoring of federal aid eligibility requirements, we reviewed Education's policies and procedures for overseeing the administration of ATB tests and for enforcing high school diploma requirements; reviewed relevant Department of Education program reviews and independent audits; and reviewed enforcement actions taken against schools. We reviewed relevant federal laws and regulations, conducted interviews with officials from Education, state education licensing agencies and higher education associations; and gathered information during school site visits. In addition, GAO anonymously tested institution compliance with ATB test requirements by sending, on two separate occasions, analysts posing as prospective students to take and purposely fail ATB tests at a proprietary institution. We supplemented this work with a review of investigations conducted by Education's Office of Inspector General (OIG) and the New York Department of Education. A more detailed explanation of our methodology is available in our full report. We conducted our work from October 2007 to August 2009, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

In separate investigations at proprietary schools, we, along with other federal and state investigative agencies, found test administrators or school officials violated rules intended to ensure prospective students without high school diplomas pass required ATB tests before obtaining access to Title IV financial aid. For example, when GAO analysts posing as prospective students took the ATB test at a proprietary school, the independent test administrator gave them and all the test takers in the room—about 20 people in total—answers to some of the test questions. In addition, the analysts' test forms were tampered with: their intentionally incorrect answers were crossed out and changed to correct answers to ensure the individuals passed the test. Our work confirmed similar findings by Education's OIG and New York state investigators.

These problems result, in part, from key weaknesses in Education's oversight of ATB testing. Under the ATB test program, Education is responsible for overseeing test publishers who, in turn, are responsible for certifying and monitoring test administrators who give the ATB tests to prospective students at schools. Regulations governing the test process require test administrators to be independent of the school where they administer the test and to submit test answer sheets directly to the test publisher for official scoring. The test publishers, in turn, are responsible for analyzing test scores and submitting an analysis of these test scores to Education every 3 years to help identify improper testing (see figure 1).

³GAO-09-600 (Washington, D.C.: August 17, 2009).

FIGURE 1.—ATB TEST PROCESS



Sources: GAO analysis; images, Art Explosion.

Nevertheless, we found that Education had not followed up with test publishers to ensure that all comply with these requirements. For example, as of early 2009, one of the four approved test publishers had yet to submit test score analyses due in April 2005 and in April 2008 for two of its approved tests. Education officials told us the employee responsible for test publisher oversight and review of test submissions had retired in 2008 and no one at Education had followed up with test publishers to obtain unsubmitted test score analyses until March 2009, in response to our review. We also learned from OIG and Education officials that while one test publisher provides thorough analyses that have led to the identification of possible violations, other test publishers provide only cursory analyses of test scores. In addition to problems with Education's monitoring of test publishers, Education regulations do not allow for the timely identification of improper test administration. For example, as noted earlier, regulations require test score analyses to be conducted every 3 years, which may leave improper testing undetected for years. Furthermore, regulations do not require test publishers to follow up when irregularities are identified, or to report corrective actions to Education. Given the risks of potential fraud and abuse associated with ATB testing, such weaknesses in Education's monitoring and oversight leave the ATB test program vulnerable to future violations.

We also identified cases in which recruiters at two separate publicly traded proprietary schools helped prospective students obtain invalid high school diplomas from diploma mills—entities that provide invalid diplomas, usually for a fee and little academic work—so that students could gain access to federal loans. In one case, representatives of a student interest group told us a student who dropped out of high school in the 9th grade was guided by the proprietary school to take an online test to receive a high school diploma. In another case, a student told us during a site visit that he was flunking out of high school when a recruiter at the proprietary school directed him to a place where he could pay a fee to take a test and obtain a high school diploma. Based on further review, we confirmed that state and county government agencies had determined these entities to be diploma mills. Our findings also confirmed similar problems identified by Education, and Education regional officials told us the problem may be more widespread than is known.

Problems with the use of invalid high school diplomas to gain access to federal student aid are partly attributed to key weaknesses in Education's policies governing high school diploma requirements, and the lack of information and guidance on valid high school diplomas. For example, while senior Education officials told us it is the department's official policy that high school diplomas from diploma mills are not acceptable for federal aid eligibility, Education has not communicated this position in clearly written policies. Without written and clear communication of its policy, Education staff and external parties, including schools and independent auditors, lack important information regarding eligibility and compliance requirements under Title IV rules.⁴ Education officials have acknowledged that the use of high school diploma mills is a problem and that more guidance would be helpful. In May 2009, Education announced plans to convene public forums to help inform negotiated rulemaking sessions on, among other matters, the definition of a high school diploma as a condition of receiving federal student aid. We also found that Education provides limited guidance and tools that Education staff, schools, and independent auditors can use to help identify high school diploma mills. In its Federal Student Aid Handbook, Education advises officials to contact state education agencies if they question the validity of a high school diploma.⁵ Yet, Education officials told us that Education staff have no other guidance to help them judge whether there is a potential problem with a diploma. In addition, Education officials told us a list of recognized high schools could help its staff and schools better identify diplomas from diploma mills. Several states already provide lists of recognized high schools and make them available to the public on their Web sites. Yet, Education provides little information on these already available resources. In contrast, Education does offer information and resources on its Web site to help individuals identify and avoid higher education diploma mills by listing colleges and universities that are eligible to participate in federal student aid programs.⁶

Our findings do not represent nor imply widespread problems at all proprietary schools. Many proprietary schools play an important role in providing a range of students, including non-traditional and disadvantaged students, with an opportunity to obtain the education they need to increase their work skills and find jobs. However, our work has identified potential fraud at a few proprietary schools and significant vulnerabilities in Education's oversight of a key aspect of the federal student financial aid program. In our recently issued report, we recommended that Education strengthen its monitoring and oversight of federal aid eligibility requirements to (1) improve its monitoring of ATB tests and target schools that fail to follow testing regulations for further review; (2) revise regulations to strengthen controls over ATB tests; and (3) provide information and guidance on valid high school diplomas for use in gaining access to federal student aid. After reviewing the draft report, Education provided comments and noted the steps it would take to address GAO's recommendations. A complete discussion of our recommendations, Education's comments, and our evaluation are provided in the recently issued report.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions that you or other members of the subcommittee may have.

For further information regarding this testimony, please contact George A. Scott (202) 512-7215 or ScottG@gao.gov. Contact points for our Office of Congressional Relations and Public Affairs may be found on the last page of this statement. Individuals who made key contributions to this testimony include Melissa Emrey-Arras (Assistant Director), Claudine Pauselli, Jessica Botsford, Susan Aschoff, Mimi Nguyen, and Paul Desaulniers.

[The August 2009 GAO report, "Proprietary Schools: Stronger Department of Education Oversight Needed to Help Ensure Only

⁴Education is responsible for overseeing schools' compliance with Title IV laws and regulations including their role in ensuring that only eligible students receive federal student aid. As part of its compliance monitoring, Education relies on department employees and independent auditors of schools to conduct program reviews and audits of schools to monitor compliance with eligibility requirements for Title IV.

⁵The Federal Student Aid Handbook provides guidance to Education staff, schools, and lenders that offer federal student assistance to students and borrowers.

⁶The Higher Education Opportunity Act, which reauthorized and amended the Higher Education Act of 1965, provides that the Secretary shall maintain information and resources on the Department's Web site to assist students, families, and employers in understanding what a college diploma mill is and how to identify and avoid such diploma mills. Pub. L. No. 110-315, § 109.

Eligible Students Receive Federal Student Aid,” may be accessed at the following Internet address:]

<http://www.gao.gov/new.items/d09600.pdf>

Chairman HINOJOSA. I now call on Mr. Shireman.

**STATEMENT OF ROBERT SHIREMAN, DEPUTY
UNDERSECRETARY, U.S. DEPARTMENT OF EDUCATION**

Mr. SHIREMAN. Chairman Hinojosa, Chairman Miller, Ranking Member Guthrie, thank you very much for the opportunity to testify today.

Federal student aid serves a particularly important role in helping our nation recover from the economic downturn. Last year, we saw an unprecedented 20 percent increase in the number of applications filed for financial aid for college. More students than ever qualified for Pell Grants, and more students from all economic backgrounds took out federal loans.

In light of the vital importance of federal student aid in these uncertain economic times, it is extremely important that we maintain program integrity and ensure that the consumers and taxpayers are protected.

I want to speak broadly about this issue of program integrity, but let me start by addressing the issues raised in the GAO report. As Mr. Scott mentioned, the Higher Education Act requires that an institution participating in federal student aid programs has to admit as regular students those who either have a high school diploma or have taken the ability to benefit test. These serve as important indicators of whether a student is qualified to study at the post-secondary level.

In general, we agree with the findings and recommendations that GAO has made about ATB tests. Even before the release of the report, we had taken steps to improve our monitoring and oversight of the ATB test publishers. The Department of Education now has systems in place to monitor and track the three-year test analyses required of all test publishers. We are in the process of contracting for the services of independent psychometricians, who will review not only those three-year test analyses, but also any new or renewal requests received from test publishers for approval of those tests.

Moreover, the department has begun planning for changes to its school reporting systems that will support student-specific ATB reporting. The results of this reporting will help us to focus on monitoring efforts on institutions that have a high number of ATB-eligible students.

Ability to benefit testing is among the issues for upcoming rulemaking sessions that we started the process for in May. Among the topics around ability to benefit testing that will be discussed in these negotiations are the establishments of controls on individuals who have been decertified by test publishers and possibly more frequent reporting by test publishers.

Also at the rulemaking, we will discuss how we might address the problem of high school diploma mills. This could involve regula-

tions, or it might simply involve the department identifying resources for helping colleges to identify legitimate sources of high school diplomas.

Mr. Chairman, we expect more than 14 million students to take advantage of federal financial aid in this coming year, and we want to do all we can to ensure the best possible outcome for students having a real opportunity to gain the skills and knowledge to be successful in the workforce and in their communities.

In recent months, the department began to take additional steps to improve accountability. First, we have improved communication and cooperation both within the Department of Education and with other agencies that fund and monitor post-secondary education institutions. For example, our program review office at federal student aid is now linked to the Federal Trade Commission's database of consumer complaints so that we can tap into the complaints that the Federal Trade Commission receives.

We have now created a database of state consumer agencies, state attorneys general offices so that we can refer complaints that we receive to the appropriate state offices.

We have expanded an internal—a joint project to identify areas that are at high risk for fraud. This is in working with the inspector general's office at the Department of Education.

Second, we have increased our efforts to get more and better information to consumers. For example, now when students are—when prospective students are applying for financial aid on the Web using FAFSA on the Web and are identifying the schools that they want to receive their financial aid information, they can see what the graduation, transfer and retention rates are at those particular schools, giving some initial information to students. We are also looking into ways that we might be able to make better use of the Department of Labor's useful career information.

The third area that we are launching is a—this rulemaking process that I mentioned, where in addition to addressing the issue of high school diploma mills and ability to benefit tests through input that we receive starting in May, we have identified a number of areas that we will be working on, such as satisfactory academic progress, links between training programs and specific occupations, earnings and costs of those programs, recruitment tactics, and the role of states.

Mr. Chairman, our goal is to further strengthen the integrity of the financial aid programs. And I thank you for the opportunity to testify.

[The statement of Mr. Shireman follows:]

**Prepared Statement of Hon. Robert M. Shireman, Deputy Undersecretary,
U.S. Department of Education**

Chairman Hinojosa, Ranking Member Guthrie and Members of the Committee: Thank you for the opportunity to testify about the integrity of the Federal student financial aid programs. During the upcoming academic year, the Department of Education will help an estimated 14.2 million students enrolled at 6,200 of our Nation's colleges and universities, community colleges, and trade and technical schools begin and complete programs of study that will prepare them to be an active and important part of America's future. Students with degrees and other formal credentials from our Nation's postsecondary education institutions are more likely to be employed, even during these difficult economic times. So, we were pleased to see additional funds invested in student financial aid, including additional funds provided

for Pell Grants and Federal Work-Study in the American Recovery and Reinvestment Act (ARRA), which will result in an estimated \$129 billion in federal aid—\$31 billion in grants and \$98 billion in loans. According to the College Board's 2008 Trends in Student Aid report, Federal student aid accounted for nearly 60 percent of all student aid provided and it is likely that the Federal share will increase, given the current economic conditions that limit the ability of States and institutions to increase aid.

Federal student aid serves a particularly important role in helping our Nation recover from the economic downturn. Last year, there was an unprecedented 20 percent increase in the number of applications filed for aid. More students than ever qualified for Pell Grants, and more students from all economic backgrounds took out Federal loans. Federal student aid provides a critical safety net. Far too many families have found themselves in increased financial difficulty, and wondering whether they can afford to send their children to college. Far too many of our citizens have, through no fault of their own, found themselves needing to return to school for additional training, either because they had lost a job, or feared losing one. In light of the vital importance of Federal student aid in these uncertain economic times, it is extremely important that we maintain program integrity and ensure that the consumers of these programs are protected.

The issues of program integrity and consumer protection are complex and are not limited, as some have asserted, to for-profit postsecondary education. There are many factors that are more important than whether a college is a non-profit, for-profit or public institution. To protect student consumers, we intend to monitor postsecondary education institutions, paying particular attention to indicators such as: high dropout rates, heavy reliance on federal funds, students with high levels of debt or defaults, the financial distress or difficulty managing the institution's financial affairs, consumer complaints, and rapid growth. If we find violations of our rules, we will take appropriate limitation, suspension or termination action. For example, in FY08, ED compliance staff conducted 190 in-depth program reviews at institutions that were triggered by our risk-based indicators. Ultimately, these reviews led to five administrative actions, including the loss of Title IV eligibility at an institution of higher education. In addition, through its other monitoring activities, ED compliance staff initiated 30 additional administrative actions resulting in 19 other institutions' loss of eligibility. However, if an institution is compliant with our rules, we will provide additional technical assistance to address problems they face.

I appreciate the opportunity to appear here today, because we have a great deal to report on in terms of the steps we are taking to ensure that Federal student financial aid funds are used appropriately, and that the students they are intended to help are not harmed by the actions of institutions and other participants in the Federal student aid programs. The Secretary, the Under Secretary, the newly appointed Chief Operating Officer for Federal Student Aid (FSA), and I all share the view that it is more important than ever that the Department ensure that the right aid gets to the right students, with the right end result: ensuring that students have the opportunity to gain the skills and knowledge to be successful in the workforce and in their communities.

In recent months, the Department began to take additional steps to ensure accountability from institutions participating in the Federal student aid programs, and to ensure meaningful results for students. We have been focusing our efforts on enhancing our leadership role in protecting students and families, and improved communication and cooperation, both within the Department and with other agencies that fund and monitor postsecondary education institutions. Over the last several months, we have met with officials from other agencies, including the U.S. Departments of Veterans Affairs and Labor, the Government Accountability Office, the Federal Trade Commission (FTC), the National Association of Attorneys General, the National Association of State Administrators of Private Schools, and the New York State Education Department. Just last week we met with officials at the White House. These efforts were designed to share information about effective program monitoring, including how risk factors are identified and used, and to improve inter- and intra-agency communication on postsecondary education issues. In addition, we have been working with the Department's Office of Inspector General (OIG) to identify the recurring findings and recommendations OIG makes during audits of Federal student aid program participants in order to identify ways in which we can quickly reduce program vulnerabilities.

We have begun to retool our process for reviewing participants in the Federal student aid programs and to assess recently-revised program review guidelines. The Department's FSA office is working to improve the program review process,

strengthen State and interagency partnerships, and identify other steps to improve program compliance.

These efforts have resulted in better inter- and intra-agency coordination, use of available technology and information, and staff preparation, including the following examples.

- Access to, and use of, the FTC database of consumer complaint information: The Department is now able to input and extract trend information about student-reported problems regarding postsecondary schools. This information will be used to help make decisions about the institutions we should monitor given available resources.

- Creation of a database to promote student consumer complaint resolution: The Department has created a database of contact information to allow student consumer complaints to be referred, as appropriate, to State Attorney General offices or State agencies responsible for consumer protection or licensing.

- Expansion of the joint project to improve targeting of limited monitoring resources: The Department plans to build on the previous successes of the OIG and FSA in identifying risk factors for use in targeting program review activities. These offices combined the efforts of staff with expertise in auditing, investigation, inspections, program reviews, and system data knowledge to identify areas that were at high risk for fraud. They then used this information to deter this activity and to propose legislative or regulatory changes to reduce further instances of fraud. The initial OIG/FSA Fraud initiative conducted resulted in approximately 65% of the 17 schools identified being found to have committed the frauds or abuses identified by the data queries/fraud/abuse indicators.

Notwithstanding our enhanced monitoring efforts, we have an additional safeguard in protecting against waste, fraud, and abuse in the Federal student aid programs—the students who are the direct beneficiaries of those programs. We need to equip them with the tools they need to make good choices. We have increased our efforts to get more and better, information to consumers. In August, the Department began showing graduation rates, collected as part of the National Center for Education Statistics' Integrated Postsecondary Education Data System (IPEDS), to aid applicants when they select an institution to receive their ISAR information. We anticipate that this additional consumer disclosure will help students and families assess whether they should enroll in a particular institution. This information helps to remind students to review their choices carefully, and leads them to sources for more comprehensive information. As a possible next step, we are looking into ways that we might link students and their families to the Department of Labor's useful career information, which would enable students to assess what careers are in demand and what wages they might expect to earn in order to inform their decisions on further education in a selected field.

Over the last several years, the Department has been engaged in rulemaking on a variety of issues arising from changes to the Higher Education Act of 1965 (HEA). These rulemaking efforts have been very important to ensuring that new programs, like Academic Competitiveness Grants, National SMART Grants, and TEACH Grants, have been appropriately and efficiently implemented. These rulemaking efforts have also led to important changes to the Federal student loan programs. While some of these rulemaking efforts have helped improve program integrity indirectly, little has been done to focus rulemaking on that specific topic.

On May 26, 2009, the Department published a Federal Register Notice announcing our intent to establish two negotiated rulemaking committees. One committee will develop proposed regulations governing foreign schools. The second committee will develop proposed regulations to maintain or improve program integrity in the Federal student aid programs. In late June 2009, the Department held three public hearings for interested parties to discuss the agenda for the negotiated rulemaking sessions and sought input about whether we should consider rules to modify certain practices related to program integrity and how and when to implement these modifications. We heard testimony and received written comments from approximately 290 individuals. Transcripts from the hearings and copies of the written comments are available on the Department's website. Comments on program integrity issues during the hearings ranged widely, from "make no change" to recommendations for significant change.

The negotiated rulemaking process is continuing. We have received nominations for individuals to serve on the negotiating committees and we have started the process to select individuals to serve on those committees. We will begin negotiations in early November 2009, and expect to complete negotiations by February 2010.

Based on the feedback received at the public hearings held in Denver, Philadelphia and Little Rock, we have identified a dozen topics for negotiations. Let me talk

briefly about several of those topics as they relate directly to program integrity in the Federal student aid programs.

One concern that arose during the public hearings and the public comments was about the level of debt that students were incurring in relation to the education and training being provided. As we looked at the regulatory requirements, several changes seemed to be appropriate for consideration to address the debt that students incur. In this context, we plan to consider regulatory changes in three areas: satisfactory academic progress; the definition of a “credit hour;” and “gainful employment in a recognized occupation.”

With regard to satisfactory academic progress (SAP), to be eligible to receive Federal student financial aid, a student must meet standards of satisfactory academic progress toward a degree or certificate offered by that institution. During the public hearings, the Department sought input on whether, or how, to clarify the definition of SAP. As a result of those hearings, during the negotiations we will discuss whether the current regulations on retaking courses to meet qualitative standards should be reconsidered; whether students should be permitted to use Federal student aid funds to retake courses to get a better grade; whether the regulations governing SAP should be changed to require reviews more frequently than once each year; and whether the regulations governing cumulative completion and grade point average requirements should be revisited.

Another issue that will be considered during the upcoming negotiations is the definition of “credit hours”. Credit hours are used to measure progress toward the completion of a degree or certificate, and in the award of Federal student aid, but there is no commonly accepted definition of what is an appropriate measure of a credit hour. A credit hour is a unit that weights the value, level, or time requirements of an academic course taken at an educational institution. At its most basic, a credit hour is a proxy measure of student learning. During the public hearings, the Department sought input on whether there should be a regulatory definition of a credit hour for Federal student aid purposes; whether different standards for earning a credit hour should be developed for undergraduate education, graduate study, distance education, and other non-traditional programs; and what relationship such a definition for purposes of Federal student aid should have to accrediting agencies’ standards for program length.

Another issue to be discussed in the negotiations is “gainful employment in a recognized occupation”. Certain for-profit institutions of higher education and postsecondary vocational institutions are generally allowed to use Federal student aid only for programs that prepare students for “gainful employment in a recognized occupation.” This HEA requirement was restated in 2008 by the Higher Education Opportunity Act (P.L. 110-315), and we sought input during the hearings on whether and how “gainful employment” could be more clearly defined. One suggestion was that the term could be defined in a way that takes into consideration a student’s likely earnings as well as the likely amount of student loan debt. The negotiators, in consultation with the Department of Labor, can consider that suggestion and other ideas on the issue.

During the public hearings, we also heard concerns expressed about overly-aggressive admissions officers and misleading advertising by postsecondary institutions. To address these concerns, we will consider whether the rules related to the prohibition against making incentive payments to recruitment personnel should be re-examined. The HEA prohibits an institution, as a condition of eligibility for participating in the Federal student aid programs, from providing any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any individual or entity engaged in recruiting or admissions. Current “safe harbor” regulations were intended to help institutions adopt compensation arrangements that are not considered to run afoul of these prohibitions. Unfortunately, these regulations can result in what might otherwise be viewed as improper student recruiting activities by some unscrupulous institutions. The Department has received a large number of complaints from students and enrollment advisors about the high-pressure sales tactics of some postsecondary institutions. Some argue that tying staff compensation to the number of students enrolled is an inherent conflict of interest, and that the safe harbors undermine the statutory ban on incentive compensation. The Department has also heard from a number of educational institutions that the purported lack of clear guidance prior to establishment of the safe harbors made it difficult for institutions to be confident of their compliance with the law. During the upcoming negotiations, we will consider whether the safe harbors should be maintained, amended, or eliminated in whole or in part from the regulations.

During the public hearings, we also heard complaints about false and misleading advertising and other information that is provided to prospective students and their

families. While this issue is also under the purview of the FTC as it relates to for-profit entities, it is clear that the potential for false and misleading information can be an issue at all types of postsecondary education institutions. We will discuss this issue during the upcoming negotiations, and hope to have input from the FTC on its experience.

The HEA also includes a requirement that, to be eligible for Federal student aid, an institution be legally authorized by a State to offer a postsecondary educational program. The Department's interpretations of this provision have, over time, evolved into considering a State's failure to preclude the provision of postsecondary education as constituting that authorization. In the upcoming negotiations, we will discuss whether the HEA's State authorization requirement should involve at least some minimal level of affirmative approval by a State.

With this description of the Department's program integrity and consumer protection efforts as background, I will now address the recommendations made by the Government Accountability Office (GAO) in its recent report, *Proprietary Schools: Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid*. Even before the Department received the report, we had already identified the two topics discussed by GAO—the Definition of High School Diploma for the Purpose of Establishing Eligibility to Participate in Federal Student Aid and Ability to Benefit—as potential topics for negotiations in the upcoming round of negotiated rulemaking.

The HEA requires an institution of higher education participating in the Federal student aid programs to admit as a regular student only a person who have obtained a high school diploma, or its recognized equivalent, unless the student passes an "Ability to Benefit" test, as discussed below. The high school diploma serves as an indicator that the student is qualified to study at the postsecondary level. During the public hearings, institutions expressed concern about the administrative burden related to researching the legitimacy of a high school diploma. In addition, some witnesses described situations in which institutions direct students without high school diplomas to high schools with which the institution may have a business arrangement to complete their secondary school degree. Many institutions have asked the Department or State educational agencies, in order to reduce the burden on institutions, to develop either a comprehensive list of legitimate high schools or a listing of schools that are known as "diploma mills." During the upcoming negotiated rulemaking, we will discuss these issues and develop regulatory changes, if appropriate.

Generally, students without a high school diploma or its recognized equivalent, a GED, can qualify for Federal student aid if they pass an independently administered test of basic math and English skills approved by the Secretary, called an "Ability to Benefit" (ATB) test. These ATB tests are published by private, for-profit and non-profit test publishers, and are administered to students by an independent assessment center operated at public or non-profit institution of higher education, or by a certified independent test administrator.

The Department is responsible for approving ATB tests, and ensuring that each test publisher is monitoring the administration of its tests to students. The regulations provide that the test publishers are responsible for certifying and monitoring test administrators to ensure the independent and proper administration of ATB tests. Under the current regulations, test publishers are required to conduct, and submit to the Department, an analysis of test scores every 3 years to identify any test irregularities that would suggest that ATB tests are not being administered in accordance with the Department's regulations.

In its report, GAO recommended that the Department strengthen its monitoring of test publishers. GAO also recommended that the Department take steps to ensure that the analyses conducted by test publishers are sufficient to identify improper testing. Finally, GAO recommended that the Department modify its regulations to obtain more frequent analysis of test scores by test publishers to improve the integrity of the testing process.

In general, we agree with the findings and recommendations in the GAO report and, even before release of the report, we had taken steps to improve our monitoring and oversight of the ATB test publishers. The Department now has systems in place to monitor and track the 3-year test-anomaly analyses required of all test publishers. We are currently contracting for the services of independent psychometricians who will review not only the 3-year test analyses, but also any new or renewal requests received from test publishers. Moreover, the Department has begun planning for changes to its school-reporting systems that will support student-specific ATB reporting. The results of this reporting will help us focus monitoring efforts on institutions that have a high number of ATB eligible students.

ATB testing is among the issues for the upcoming negotiated rulemaking sessions. Among the topics around ATB testing that will be discussed in those negotiations will be the establishment of tighter reporting and other controls on individuals who have been de-certified by a test publisher, and more frequent reporting by test publishers.

Let me conclude my remarks by emphasizing that our goal is to work to protect students and families as consumers of educational and training services of all types, to ensure the integrity of the student aid programs, and to use all the tools available to achieve those ends.

I would be pleased to respond to any questions that you might have.

Chairman HINOJOSA. Thank you.

I now call on Ms. Mitchelson.

**STATEMENT OF MARY MITCHELSON, ACTING INSPECTOR
GENERAL, U.S. DEPARTMENT OF EDUCATION**

Ms. MITCHELSON. Thank you. Chairman Hinojosa, Chairman Miller, Ranking Member Guthrie, and members of the subcommittee, thank you very much for inviting me to testify today.

I will focus my testimony on the two issues highlighted in GAO's report, ATB examinations, and online diploma—high school diploma mills. I will also address an area that is in need of greater oversight and statutory or regulatory change, and that area is online distance education.

First, regarding ATB, statutory changes in the program in 1992, implemented by department regulations, eliminated the largest opportunity for abuse. We have conducted a series of audits in 2002 that made recommendations to the department on how it could improve its oversight of the test publishers. While the department did respond to our recommendations, as GAO noted, more improvements are needed in that area.

We will continue to investigate ATB violations, which often are an aspect of multifaceted fraud schemes involving other criminal conduct. Currently, we have 15 ATB-related investigative matters underway and an analytical project that is generating even more leads.

Now, turning to the second issue, online high school diplomas, the Higher Education Act and department regulations do not define what a valid high school diploma is for purposes of receiving federal student aid. We have identified efforts by some entities to exploit this ambiguity. These efforts include cases in which schools help students obtain diplomas from high school diploma mills.

As an example, we conducted an undercover operation in which a proprietary school official directed our undercover agent to purchase an online high school diploma and provided him a copy of the test answers to render him eligible for federal student aid.

As a result of this investigation and other information we have received, we identified a number of online high schools and obtained via OIG subpoena records from 13 of them. Our analysis of that data identified more than 9,500 students who had purchased diplomas from these high schools and who were now receiving federal student aid or had received it between the years 2005 and 2008.

We are currently working with the department on ways to use this information to prevent the disbursement of federal student aid to individuals who purchased fraudulent diplomas.

Finally, for my third issue, I would like to discuss the potential for fraud in distance education. The risk here stems from the difficulty in ensuring that students are actually enrolled and engaged in academic activities and that they are who they say they are.

In order to receive federal student aid, a student must be in attendance in school. Recent work of my office has concluded that determining what constitute a class and class attendance in the on-line environment is a challenge in the absence of defined class times or delivery of instruction by instructors.

The online environment also creates challenges for determining whether a student has enrolled for purposes of obtaining a credential or is simply completing sufficient online activity to receive a disbursement of student aid funds, which he or she will then use for other purposes.

At present, neither the HEA nor department regulations define what constitutes instruction or what constitutes attendance in an online environment. Without such definition or adequate controls at the institutions themselves, student aid funds are at risk of being disbursed to ineligible students in the online programs or to students who have dropped out from these programs.

Our investigative work also has confirmed the vulnerability of online distance education programs to fraud. We currently have 29 distance education-related investigative efforts underway, 19 of which were identified in just the last 2 years. In my written testimony, I provide more examples of problems in this area.

In closing, let me reiterate that OIG will continue its efforts in fighting waste, fraud and abuse in the federal student aid programs, including addressing the issues that we have discussed here today. This concludes my statement, and I am happy to answer any questions.

Thank you.

[The statement of Ms. Mitchelson follows:]

**Prepared Statement of Mary Mitchelson, Acting Inspector General,
U.S. Department of Education**

Chairman Hinojosa, Ranking Member Guthrie, and members of the Subcommittee: Thank you for inviting me here today to discuss student eligibility requirements related to the Federal student aid programs. I am the Deputy Inspector General for the U.S. Department of Education (Department) Office of Inspector General (OIG) and I am currently the Acting Inspector General. As requested, I will provide information on our work in the area of student eligibility for Federal student aid, focusing on the two issues highlighted in the Government Accountability Office's (GAO) report titled, "Proprietary Schools: Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid." The two issues are Ability-to-Benefit (ATB) examinations and oversight and on-line high school diploma mills. I will also address student eligibility problems associated with distance education, a developing vulnerability where OIG is currently focused on combating fraud and abuse.

Background on the OIG

For over 29 years, the OIG has worked to promote the efficiency, effectiveness, and integrity of the Department's programs and operations. We conduct independent audits, investigations, inspections, and other reviews, and based on our findings, make recommendations to the Department to address systemic weaknesses and initiate administrative actions. We also recommend changes needed in Federal laws. Our staff of approximately 300 includes auditors, financial analysts, information technology (IT) professionals, criminal investigators, inspectors, management and budget analysts, and attorneys. We have 14 offices located across the U.S., including Puerto Rico.

As the Department's responsibilities have grown substantially over the years, so too has our challenge to identify and combat waste, fraud, and abuse in Federal education programs and operations. In recent years we have increased our efforts in identifying emerging and evolving threats to the integrity of Federal education funds, including IT security and issues involving on-line distance education. We have enhanced our work with the Department and its program participants, providing fraud awareness and prevention information and training that have increased the identification and reporting of fraud to us, which we use to investigate and assist in prosecuting to the fullest extent of the law.

Focus on Student Financial Aid Programs

As members of this Subcommittee know, the Federal student aid programs have long been a major focus of our audit and investigative work, as they have been considered the most susceptible to fraud and abuse. The programs are large, complex, and inherently risky due to their design, reliance on numerous entities, and the nature of the student population. OIG has produced volumes of significant work involving the Federal student aid programs, leading to statutory changes to the Higher Education Act of 1965, as amended (HEA), as well as regulatory and Departmental changes.

In OIG's early years in the 1980s, the need to address fraud and abuse in these programs was so severe that the OIG dedicated over 75 percent of its resources to fighting fraud and abuse in the Federal student aid programs. This commitment led to numerous OIG recommendations for improved management and oversight of the programs, administrative actions to terminate program participants, and much-needed legislative and regulatory reforms. The Department implemented many of our recommendations, and many requiring legislative action were adopted in the 1992 reauthorization of the HEA. Some of these changes involved ATB—controls were established over the ATB program, including a requirement that ATB tests be administered by independent evaluators, and a limit on the number of ATB students at a particular institution.

In 1990, GAO placed the Federal student aid programs on its inaugural high-risk list, opening them to a new level of scrutiny by the media, the general public, and the Congress. OIG continued its heightened efforts to identify waste, fraud, and abuse in the programs throughout the 1990s. We supplemented our traditional audit and investigatory efforts with new forensic audit technologies enabling us to identify additional areas of concern involving student eligibility. We identified hundreds of millions of ineligible awards or loan forgiveness to individuals based on inaccurate or fraudulent data included on the Free Application for Federal Student Aid (FAFSA) and other forms. We made numerous recommendations for improved controls that the Department implemented, including new computer matches in screening for: (1) previous loan defaulters; (2) citizenship; and (3) death and disability loan forgiveness for individuals claiming a total or permanent disability or reported as deceased to ensure they were not earning income from employment. As a result of our work in the 1990s and in anticipation of the 1998 reauthorization of the HEA, OIG submitted a detailed report to Congress with 17 proposals for its consideration in the reauthorization process, a number of which were adopted, including two directly impacting student eligibility: (1) verification of applicants' income match with the Internal Revenue Service (IRS) to ensure that the income reported on the FAFSA was the same as the individual's Federal tax return; and (2) and defining appropriate use of professional judgment by financial aid administrators. Although Congress provided the authority to match applicants' income with the IRS, the needed corresponding statutory change to the IRS Code has not yet been enacted.

Over the last decade, there have been significant changes in the Federal student aid programs: in 1998, the Federal Student Aid office (FSA) was created as the government's first Performance Based Organization to manage and administer the Federal student aid programs; and in 2005, GAO removed the Federal student aid programs from its high-risk list. In addition and in response to our recommendation, Congress amended the HEA in 2006 to provide that those convicted of fraud in obtaining Federal student aid funds are ineligible to receive additional aid until such funds are repaid.

As a result of the 1992 and 1998 HEA reauthorization statutes, which addressed those student eligibility problems that were so prevalent in the 1980s, OIG has shifted its resources to new high-risk areas, including FSA management and oversight of its programs and program participants, lender practices, and the significant growth of on-line distance education. The potential for fraud in distance education stems from the difficulty in ensuring that students are actually enrolled and engaged in academic activities, and are who they say they are. Schools may never

have an in-person relationship with the student, making it more difficult to ensure the correct identity of the aid recipient. The rapid growth of distance education, combined with the virtual paperless electronic delivery of student aid funds, makes this an area vulnerable to fraud.

In 2008, GAO officials contacted us regarding a project they intended to take up involving proprietary schools. We provided the GAO team with information on our long history of examining student eligibility and other issues involving the Federal student aid programs and proprietary schools. We highlighted those areas we believe present the greatest risk, specifically distance education, and provided GAO with information from our data analytics efforts, to which it refers in its report.

I will focus the remainder of my testimony in three areas: (1) our work involving ATB; (2) our work involving on-line high school diplomas; and (3) our work involving distance education. We currently have a number of efforts underway in each of these areas. To protect and maintain the integrity of these efforts, we cannot discuss or provide details of our ongoing work, but we are able to discuss the public or general aspects of it.

Eligibility Issues Involving ATB

As the GAO recognized in its report, we concluded a series of audits in 2002 that examined the Department's monitoring of ATB test publishers, the ATB testing program at the two largest independent test publishers, and the administration of tests at three institutions. We recommended at that time that the Department improve its oversight of test publishers. The Department did improve its oversight; however, as GAO reported, additional improvements are needed, due in part to a turnover in personnel at the Department.

As we noted in 2002, the statutory changes to ATB in 1992 and implemented by Departmental regulations eliminated the largest opportunity for abuse of ATB testing by removing schools from the testing process and requiring independent testing, using tests and scores approved by the Secretary. Since that time, we have continued to investigate ATB violations, which often are an aspect of multifaceted fraud schemes involving other criminal conduct. These investigations have resulted in the successful prosecution of many instances of Federal student aid fraud, including prosecutions of school officials who falsified ATB examinations in order to qualify students for Federal student aid. Currently, we have 15 open ATB-related investigative matters. Our closed ATB investigations have resulted in jail sentences, restitution, fines, and other significant penalties for wrongdoers. Below are three examples of the work we have conducted related to fraudulent ATB practices; all involved proprietary schools that are now closed:

- In 2006, the former owners of the Moler Beauty College, located in Louisiana, and their associates were sentenced to prison or probation and were ordered to pay \$165,000 in restitution for altering individuals' failing ATB test scores to qualify them for financial aid. They also administered ATB examinations without being qualified to do so, and falsely certified that the school complied with the Department's ATB standards.
- In 2004, the owner of the Training Center, located in Michigan, along with six other individuals, including the school's ATB test administrator, were convicted of fraud. The owner was sentenced to prison, and, in conjunction with a civil settlement, was ordered to pay approximately \$1 million in restitution for falsifying or directing the falsification of records, which included ATB exams.
- In 2004, the owner and four officials of the Instituto de Estetica y Belleza Marugie, located in Puerto Rico, agreed to pay \$400,000 and were banned for life from holding positions with any company or entity participating in Federal education programs for, among other violations, providing false information in ATB test records to obtain Federal student aid.

Eligibility Issues Involving On-line High School Diplomas

A growing issue impacting student eligibility for Federal student aid is on-line high school diplomas. The HEA and Department regulations do not currently specify that a high school diploma must be State recognized or approved, or issued by an accredited or State approved high school in order for a student to qualify for Federal student aid. Our office, GAO, and the Department have identified efforts to exploit this perceived ambiguity.

In its report, GAO identified cases in which proprietary schools helped students obtain high school diplomas from diploma mills. We are well aware of this problem and have related investigative matters underway:

- In 2007, as a part of an ongoing investigation into allegations we received about a proprietary school that was assisting ineligible students to obtain Federal student aid, we conducted an undercover operation in which a school official directed our

undercover agent to purchase an on-line high school diploma to render the undercover agent eligible for the aid. The proprietary school official provided our undercover agent with a copy of the answers to the on-line high school's test. We purchased the diploma and then executed a search warrant at the proprietary school. During the execution of the search warrant, we found a list of 22 on-line high schools in an office of one of the school officials.

- In 2008, we received another list of on-line high schools from an FSA employee. The FSA employee attended a roundtable discussion at a private career college symposium, and an administrator of a private career college approached the employee and provided a list of 32 on-line high schools that were potentially operating as diploma mills. Using both of these lists, we were able to identify and obtained records from 13 on-line high schools that appeared on both lists. An analysis of the data from these on-line schools identified over 9,500 students who purchased a diploma and had received Federal student aid between January 2005 and June 2008.

We are working with the Department to explore how to use the information on on-line high school diplomas and the individuals who have purchased them in the upcoming awards cycle to prevent the disbursement of Federal student aid to individuals who purchased fraudulent diplomas. In addition, we have encouraged the Department, in its upcoming higher education negotiated rulemaking session, to establish a definition of a high school diploma as a condition for receiving Federal student aid. The Department has informed us that it will discuss on-line high school diplomas at the upcoming session and will develop regulatory changes, if appropriate, to address the issue.

Eligibility of Students for Disbursements in Distance Education

Finally, we would like to bring to your attention an issue in the area of student eligibility that is placing increased demands on our investigative and audit resources and highlights the need for greater oversight and statutory or regulatory change: determining whether students in distance education are "regular students" and actually in attendance for Federal student aid purposes.

In order to receive Federal student aid, an individual must be a "regular student," that is, someone "enrolled for * * * the purpose of obtaining a degree, certificate, or other recognized credential." A student must also certify that the aid will be used solely for education-related expenses. For their part, institutions are obligated to return any Federal student aid received if a student does not begin attendance during the period for which aid was awarded. Institutions must be able to document attendance in at least one class during a payment period.

If a student begins attendance and later drops out or withdraws, institutions must determine what funds must be repaid to the Federal student aid programs or to the student. The HEA and Department regulations require the return of funds in proportion to the uncompleted portion of the payment period. However, once a student attends or completes 60 percent of a payment period, then no refund is required. For institutions that are not required by a State licensing agency or an accrediting agency to take attendance, the regulations permit institutions to keep 50 percent of all student aid funds received if a student withdraws or drops out at any point prior to the 60 percent point. Institutions are allowed to keep 50 percent of the funds even when they have an actual record or knowledge of when a student last attended. That point could be as early as the first day or week of class, yet the rules permit an institution to keep 50 percent of all Federal student aid funds received, including loan funds that students will still be obligated to repay.

This framework provides unique management challenges and opportunities for abuse in programs that are offered through distance or on-line instruction. We have completed two audits at distance education institutions that demonstrate our concerns in this area, and we are presently in the final stages of completing two additional audits examining the same issues. Determining what constitutes a class and class attendance in the on-line environment is a challenge in the absence of defined class times or delivery of instruction by instructors. The on-line environment also creates challenges for determining whether a student has enrolled for purposes of obtaining a credential or is just completing sufficient on-line activity to receive a disbursement of Federal student aid to use for other purposes. On-line instruction typically consists of posted reading materials and assignments, chat-room and email exchanges, and posting of completed student work. The point at which a student progresses from on-line registration to actual on-line academic engagement or class attendance is often not defined by institutions and is not defined by Federal regulations.

As an illustration of this problem, our 2008 audit of Capella University found that the school did not have adequate controls to determine whether students actually began attendance in on-line classes. As a result, Capella failed to return funds for

students who dropped out before their first day of class, and continued to disburse funds for students who did not return for subsequent payment periods.

Capella's documentation did not indicate that students who dropped out had engaged in academic activity. As a result, Capella should have returned all Federal student aid, and should not have calculated a refund using the midpoint of the payment period as the withdrawal date. Capella disagreed and asserted that a student's agreement to a faculty expectation sheet, introduction to the teacher or other students, or general questions about the homework process, and similar activity for which it had documentation, were sufficient to justify retention of 50 percent of the aid disbursed to the students who dropped out. We estimated that Capella failed to return over \$500,000 in Federal student aid from 2002 to 2005.

In August of 2009, we completed another audit of another large distance education institution, TUI University, which found that the school did not have adequate policies and procedures for ensuring student eligibility for Federal student aid funds at the time of disbursement and for identifying students who had withdrawn from the institution. We estimated that \$923,379 of the \$8.6 million in Federal student aid disbursements made to students for the Fall 2007, Winter 2008, and Spring 2008 sessions was either disbursed to ineligible students or not earned by students who withdrew from the institution. TUI did not confirm academic activity prior to disbursing Federal student aid, and had no policies to address circumstances when students ceased attendance without notifying the institution and no procedures to identify such students in order to perform refund calculations.

These audits highlight the difficulty of determining attendance, and thus student eligibility for funding in an on-line environment. Neither the HEA nor the Department's regulations define what constitutes instruction or attendance in an on-line environment.¹ Without such definition, or adequate controls at the institutions themselves, we believe Federal student aid funds are at significant risk of being disbursed to ineligible students in on-line programs, and that inadequate refunds will be made for students who cease attendance in these programs.

Our investigative work has also confirmed the vulnerability of on-line or distance education to fraud in the area of student eligibility. Since 2005, we have initiated 29 distance education-related investigative efforts, 19 of which were identified in the last 2 years. Our ongoing work has revealed that criminals seek to exploit institutions with minimal requirements to establish eligibility for initial and continued student aid disbursements. Community colleges and other low-cost institutions are the primary target of this type of fraud. A number of these institutions have been aggressively engaged in trying to identify fraud and have been communicating with our office regarding their findings or concerns. Below are two very recent examples of our work in this area:

- This summer, a Federal grand jury in Arizona indicted 65 individuals, 19 of whom have pled guilty, for their roles in a \$538,000 student aid fraud scheme at Rio Salado Community College. The ringleader allegedly recruited individuals to act as "straw students" at the school in order to apply for and receive Federal financial aid, completed and submitted admission forms, financial aid applications, and supporting documentation containing forged and false statements, and then assumed the identity of those individuals to access Rio Salado's on-line classes. This was done to generate records of the individuals' participation in on-line classes, which caused Rio Salado school officials to authorize financial aid payments to those individuals. When the straw students received the financial aid checks, they kicked back a significant portion of the proceeds to the ringleader. Rio Salado Community College referred this matter to us for investigation.

- As of September 30, six individuals have been sentenced and another has pled guilty for their roles in an on-line fraud scheme at Axia College, a two-year on-line college of the University of Phoenix. The scheme's two ringleaders were former employees of ACS, a third party servicer to the school, who recruited individuals to enroll at Axia in order to fraudulently obtain student financial aid. The former employees assisted the individual in completing the enrollment forms and student aid applications, then enrolled the individuals in the classes and posted homework assignments for them in order for it to appear as though the individuals were attending the on-line courses. When the individuals received their student aid checks, they would kick back a portion to the two ringleaders. Axia College referred this matter to us for investigation.

These cases, Mr. Chairman, represent what we believe is a significant challenge facing the higher education community in the area of student eligibility: confirming that an individual enrolled in distance education is actually a regular student seek-

¹ Neither the HEA nor the Department's regulations define what constitutes instruction or attendance—for the on-line environment, or for traditional classroom instruction.

ing to obtain a degree or credential and is actually in attendance. We will continue our proactive work in this area to identify issues impacting the integrity of the programs, and aggressively root out fraud and abuse.

On the issues of concern to the Subcommittee today, we will continue to pursue cases of ATB and high school diploma fraud. Implementation of the recommendations made by GAO, along with the Department's proposed improvement plans, should help better detect ATB abuse in the future. Issues involving on-line high school diplomas, however, are an evolving phenomenon which will continue to be a special focus of our investigative efforts. Until regulatory changes can be put into effect, the attention this Subcommittee and the full Committee have focused on student eligibility issues should help financial aid administrators across the country in being wary of dubious credentials.

Closing Remarks

In closing, let me reiterate that OIG is committed to promoting accountability, efficiency, and effectiveness in all Federal education operations and programs. We will continue to work with FSA, the Department, and our colleagues at GAO to successfully address areas of risk in the Federal student aid programs, and help reduce waste, fraud, and abuse in these important programs. On behalf of the OIG, I want to thank you for the support Congress has given to this office over the years. We look forward to working with the 111th Congress in furthering our goals and achieving our mission.

This concludes my written statement. I am happy to answer any of your questions.

Chairman HINOJOSA. Thank you.
I now call on Mr. Miller.

**STATEMENT OF HARRIS N. MILLER, PRESIDENT AND CEO,
CAREER COLLEGE ASSOCIATION**

Mr. MILLER. Chairman Hinojosa, Chairman Miller, Mr. Guthrie, and other members of the subcommittee, thank you for allowing me to represent the Career College Association, which consists of almost 1,600 member schools and 1.7 million students being trained in 200 professions for PhDs, professional degrees, bachelor's degrees, associate degrees, and certificates.

We want to thank you for holding this hearing today, because we at CCA share the displeasure that the chairman expressed in his opening comment about schools that violate the rules and regulations. Let me say this right upfront: There is no room for cheating in the process of higher education, whether by students, teachers, administrators, or other school personnel.

As for the woman that the GAO recorded, obviously, she is entitled to due process, but our position would be, when she goes through due process, hang her high.

We also hate high school diploma mills. These are abhorrent to the basic processes of our education system, and we support both the recommendations in the GAO report that there be increased oversight of the ATB testing system by the department, and we look forward to working with the department during the negotiated rulemaking session to figure out how to cut down on ATB problems and to figure out a way to be able to track more easily diploma mills so we don't run into them.

I am going to address simply three topics: the role of our sector, compliance in student loan default prevention, which is also underlying a lot of the GAO report.

Clearly, we believe that, as we try to expand this country's pool of people with post-secondary degrees, we try to achieve the objective that President Obama outlined in his speech in February, to

be number one in the world again by 2020. Career colleges have a great opportunity to contribute to that.

We are by far the fastest growing sector of higher education—foundation finds at career colleges students actually outperform students in terms of graduation at many other institutions. But the simple reality is that we do admit students sometimes who go through the ATB tests.

The ATB tests are not good for students, for taxpayers, for the country if they are not administered properly. And as I said before, that is why we endorse the GAO recommendation for clearer oversight of the test administrators, but we do not see any evidence that ATB fraud is widespread.

But yet one episode of cheating is too many, as Mr. Guthrie said, and particularly in the diploma mill area, again, we think we need to have more work done to make it more visible as to what can be done by schools to prevent inadvertently being tied up with diploma mills.

Compliance is a constant theme at CCA, and that is my second point. We know there is a triad of oversight: the government, Department of Education, the state departments of education, and other regulators at the state level, and the accrediting bodies.

We promote regulatory compliance at all times at CCA. In the 2.5 years I have headed the organization, we have presented 60 separate compliance sessions for our members at our conventions, at our leadership institutes, at our conferences, and through monthly webinars that we do at CCA.

We also urge our schools to attend all the compliance seminars done by the Department of Education itself, and our state associations also do training on compliance.

Our schools engage in extensive investment in internal compliance, including training, oversight. Many of our schools hire their own mystery shoppers to come in and make sure that the admissions officers and the financial counselors are not providing advice or information that is in any way inaccurate.

Now, let me talk finally about the default rate issue. It is an issue that disturbs all of us. In a perfect world, no students would default. But the simple reality, as that GAO points out quite clearly in its report, is that institutions who have a higher percentage of lower-income students and minorities tend to have higher default rates, not just in our sector, but also in traditional higher education.

This has to do a lot with the simple fact that, as Mr. Shireman pointed out, many more students are applying for federal aid, up to 14 million anticipated this year, and many of those students do not come from upper-middle-class backgrounds, where it is easy for them to repay loans.

But it is not the position of our sector or our schools to simply give up on these students and assume that they are going to default. On the contrary, CCA has had a partnership with the Department of Education since 2003, the default prevention initiative, where we work closely with the department to try to help lower default rates. We have studies underway to help schools understand best practices.

We believe that students must repay their loans, must get their education to repay their loans. We are very pleased that this Congress last year enacted the income-based repayment plan, which I believe was Mr. Shireman's recommendation several years ago, which will enable many more students to do it.

At the end of the day, Mr. Chairman, we are all about compliance and accountability. And we look forward to your questions. Thank you very much.

[The statement of Mr. Miller follows:]

**Prepared Statement of Harris N. Miller, President and CEO,
Career College Association**

Good morning. My name is Harris N. Miller, and I am President and CEO of the Career College Association (CCA). CCA represents almost 1,600 accredited career colleges, educating an estimated 1.7 million students in 200 professional, technical, and career fields. Our schools offer PhDs, Masters, baccalaureate, and associate degrees and certificate and diploma programs. All of our schools must have approval of the Federal government, appropriate state government agency, and one or more accrediting bodies recognized by the U.S. Department of Education in order to participate in Title IV student aid programs.

I want to thank Chairmen Hinojosa, Ranking Member Guthrie, and all the Subcommittee Members for holding this hearing today. The career college sector shares a commitment to regulatory oversight that protects students and taxpayers, maintains high standards for schools and the delivery of education, and fosters the ability of Americans to improve themselves and to take their place in a competitive workforce. The very name of this Subcommittee, with the tie between higher education and competitiveness, speaks directly to the purpose and vision of the sector I represent.

Our sector focuses strongly not only on the educational inputs of higher education—great teachers, top notch classrooms with up to date technology, strong reference materials, a positive learning environment—but also on the outputs—graduating students and getting them started in careers—which are another key measure of the success of institutions of higher learning. Our national drop in the world rankings from 1st to 10th or lower in people with college degrees has as much to do with students not completing the education they start as any other factor. And while the previous Administration and this Administration use slightly different terminology when talking about outputs, we applaud them both for asking the tough questions and pushing for answers on how we get more students to the finish line and into careers for which they are being educated. The American taxpayers and this Congress—in a bipartisan fashion—are asking a key accountability question about this nation's financial commitment to higher education: What is the return on the investment? CCA and our members strive to answer that question every day for our economy and, most importantly, for the students who give their time and money to attend our institutions.

Schools in our sector are also proud of their ability to adjust their programs to ensure that the education they are providing will help their students launch or improve their careers. This nimbleness reflects the changing nature of work, and the preparation necessary to be effective. Job titles such as nurse, computer programmer, and automobile mechanic require quite different skills than twenty years ago or even five years ago. By constant interaction with the employer community, our schools are aware of changing education requirements and the labor market generally. They can add capacity quickly when labor market trends demand it. That is why, for instance, our sector now produces the largest percentage of new entrants into allied health in Florida. Our schools have seen a demand, and increased their capacity to educate individuals to meet it.

Our schools are leaders in innovation. While much of higher education now uses web-based learning—a learning technique that was recently endorsed by a report commissioned by the United States Department of Education—schools in the for profit sector were on the forefront of using technology to improve access and provide flexibility to higher education, while maintaining high standards. Schools in our sector have partnered with high schools in cities such as Chicago to offer disadvantaged students the opportunity to obtain a high school degree and an associate's degree at the same time, increasing graduation rates and providing students a jump start on their careers.

Let me say up front: there is no room for cheating in the process of higher education, whether by students, teachers, administrators, other school personnel, or outside testers and evaluators. Last month, the Government Accountability Office (GAO) issued a report on career colleges. We were disappointed to learn about a limited number of abuses allowing unqualified students to gain admittance and to access federal Title IV funds. We abhor any practice that breaks the rules or the law to admit unqualified students, whether through fraudulent testing practices or bogus high school degrees. We also hate high school diploma mills. We share the government's interest in eliminating any form of fraud and abuse associated with the Title IV program.

At a time of economic turmoil, when the nation needs to get the most from its human capital, episodes of cheating are a costly distraction from our core mission: helping America to build a more globally competitive workforce. Our schools work to advance this mission every day. For instance, eight of the ten fastest growing occupations and occupations projected to have the largest numerical increases requiring an associate level degree are in healthcare or computer professions. Half of those requiring a baccalaureate degree are in the healthcare or computer professions.¹ Almost one-third of the degrees, diplomas and certificates conferred by schools in the career college sector (30.6 percent) relate to healthcare or medical careers; an almost identical percentage (29.9 percent) is awarded in information technology.

In the career education sector, we leave basic and applied research, classes in Middle English or Renaissance Art, and major intercollegiate athletics to others. Instead, career college curricula respond to the skills employers seek most, today and tomorrow. By doing so, our institutions raise higher education to the power of the marketplace. We reject the agrarian era timetable for education, in which students take off summers and often long periods in the winter, in favor of year round education that allows students to complete their degrees quickly—2.5 or 3 years for a bachelor's degree, for instance—and get on with their professional lives. We see the students as customers who deserve not only the most up to date classrooms, textbooks, faculty, and facilities, but personal attention to assist them find jobs, deal with personal challenges in their lives, and help remediate educational shortcomings that too often remain from their primary and secondary education.

Americans are responding to this different approach to postsecondary education in dramatic numbers. The career education sector represents nine percent of higher education enrollments and average annual enrollment is growing at almost double digit rates. That rapid growth has accelerated even more during the last 18 months as higher unemployment has lead many more people to turn to education as they prepare for economic recovery.

But even this pace understates the importance of the career education sector to the economy and the nation. For instance, in terms of associates' degrees, the basic credential for a growing number of entry and mid-level jobs today, our sector awards over 16 percent of all such degrees. Between the 1996-1997 and the 2006-2007 academic years, the number of total degrees awarded by career colleges has increased by 224 percent, from approximately 75,000 to over 240,000.²

We are particularly mindful of issues that relate to how our students enter school because the route is not always the high school-to-postsecondary institution, traditional route. Career college students tend to be working class and lower income individuals, often the first in their family to attend college. About 40 percent are minorities and over half are women. Career college students are often independent working adults with family obligations. Generally speaking, career colleges serve a non-traditional student population—and serve them very well. Although its students are very often not on the “college track” in high school, they get on the fast track in career colleges. Indeed, a new study by the Imagine America Foundation finds that career colleges out-perform other types of institutions when it comes to dealing successfully with at-risk students. The study looks at two key outcome measures across higher education sectors, persistence and attainment, and finds that career colleges often produce better results in these critical areas.³

Non-Traditional Students/All American Values

So who is a non-traditional student? First, as this Subcommittee knows, they may soon be the majority of students in postsecondary institutions. At career colleges, community colleges, and even many so-called traditional schools, students who did

¹ Growth in HIT Workforce: Bureau of Labor Statistics Occupational Outlook Handbook, 2008-09

² The Condition of Education 2009, U.S. Department of Education, National Center for Education Statistics, Table 42-1, page 103

³ Pre-Release Study, Imagine America Foundation

not enter college directly out of high school and who did not follow a classic college preparation high school curriculum are growing dramatically.

Non-traditional students themselves are varied. For instance, many career college students come back to postsecondary education after first serving in the military. Michael Vera, for example, joined the Marines at age 17. As we first reported in CCA's Link magazine last fall, Vera, a Jersey City, NJ native, says he was not ready for college immediately after high school:

"I was decent in high school. I just didn't have the focus. I know that doing the traditional college wasn't the right time for me * * * I thought I needed a good kick in the butt to get myself straight * * * to mature and to learn some type of responsibility."

Michael's military service included a posting at the Pentagon and duty there on September 11, 2001. Vera was injured when terrorists flew a Boeing 757 into the building. Despite his injuries, he helped 25 others escape the wreckage. Michael ultimately left the military and, while working at the Department of State, enrolled at DeVry University in Arlington, Virginia, to advance his career. And perhaps his traumatic past experience shaped his attitude towards the future.

"I didn't want to go to school and just take courses just to take them," he told CCA's Link magazine. "I wanted to be focused on what I really want to study." Michael, who won the 2008 LDRSHIP Award for his heroism from the Imagine America Foundation, plans to become a security engineer.

Michael is not alone. Approximately 20 percent of those receiving veterans' benefits enroll in career colleges. Like other non-traditional students, they are attracted by the flexible schedules and hands-on approaches that characterize our schools. But they are also apt to find that career colleges are better aligned with their interests in getting an education and getting on with life.

Our students can also be individuals who have taken life out of the traditional order, many entering college after starting a family or working for a few years perhaps at places that do not require postsecondary skills—but also offer few chances for economic advancement. Sometimes these individuals become heroes of the home front. I am struck by how many times I hear older students tell me that their own young children see them studying at the kitchen table and get motivated to do likewise. When I speak at a college graduation, I am impressed and moved by the life challenges so many of the graduates have overcome to earn their sheepskins.

Motivation is the key. Students come to career colleges ready to succeed, and career colleges help students put the pieces where they belong. This assistance means working together to remove obstacles to success, whether academic, personal or professional. About 50 percent of our schools operate on an open admissions basis. Our emphasis is on helping every student succeed, not on building a more selective student body than the next school. There are no ivory towers in our sector, but plenty of students with a towering desire to get an education and to get ahead.

Take the example of Pamela Jackson, who attended Everest College in Merrillville, Indiana. Pamela grew up in Cabrini-Green on Chicago's North Side—a development known for being one of the worst public housing communities in the country. As the daughter of a mother addicted to drugs, Pamela's childhood was hard. Many nights, she and her siblings were left alone with no food and no one to take care of them. When she was 14, Pamela became involved in a gang. This was also when she began living two lives: One as a gang member, the other as an honor student. Pamela's father was one of the few positive role models in her life, instilling in her that education was the key to a better life. But when Pamela was 17, her father was killed as a result of gang violence. While still in high school, Pamela gave birth to two children. Soon after, her mother kicked her out of her home. But those personal challenges did not stop Pamela from being a good student. In fact, she worked harder, graduating high school with honors.

After the birth of her third daughter, Pamela, then 18, realized she needed to focus on a stable career.

She eventually discovered Everest's practical nursing program. Pamela encountered many personal hardships while enrolled in the program—including domestic violence and homelessness—but with the help and encouragement of her nursing instructors and the assistant nursing director, she managed to complete the practical nursing program last April. Despite her many challenges, Pamela was an ideal student with excellent attendance. Pamela passed her state board examination in June 2009 and obtained her nursing licenses in both Indiana and Illinois. Pam had several job offers upon graduation, and with the help of Everest's Career Services team, she currently works at a nursing home as a licensed practical nurse.

Career colleges proved to be the right solution for a younger person like Pamela Johnson. But a difficult economy has forced many middle-aged adults to re-evaluate their skills and to gain a more competitive employment posture. Rick Brandburg,

47, had not been in a classroom in 28 years. He had reservations about whether he had the stamina and funds to go back to school. With an emerging passion in criminal justice, however, Rick decided to enroll at Kaplan College in Hagerstown, Maryland.

Rick was also impressed with the level of instruction provided by members of the faculty and the flexibility of class schedules. Having a schedule that allowed Rick to work was essential, and he received hands-on instruction from the faculty during his night courses.

According to Rick, "The way Hagerstown College has the classes set up is much more flexible than the local community college. I am able to have a full-time class schedule that only has classes three nights a week. The flexibility made a difference for me."

"I also enjoyed the idea that most of the instructors I've had have experience in the real world. Who better to teach evidence and testimony than someone who deals with it every day? This is the best experience I think you can get."

Since graduation, Rick has been hired by the state of Maryland as a child support enforcement agent.

"I love my job. It is still fairly new, but my education has allowed me to catch on to it very well—it's my ultimate job."

Test Fraud: No Pattern of Abuse

Both Pamela Jackson and Rick Brandenburg graduated from high school, but many others do not. Drop-out rates in several major metropolitan areas across the country are 50 percent or more. Ability to Benefit tests are an important tool for helping those who may have dropped out of high school and who do not have a GED to regain a foothold on the ladder of success.

But not if the tests are misused. Beyond the civil and criminal penalties that may attach to engaging in such fraud, schools that participate in or support this activity ultimately damage themselves, their reputations and their future viability. The vast majority of schools that play by the rules dislike intensely those that do not. Walk into a career college and you will find students who cannot wait to get to work * * * to get on with the next lab or classroom experience * * * to find the answer to the next question. In fields like automotive repair and allied healthcare it is not unusual to see people working in teams or on common, hands-on projects. The education is concise, concentrated, streamlined. Allowing students without the basic ability to perform the work simply slows progress, distracts instructors, and diminishes the learning process for all involved.

The good news is that we do not see evidence that fraud in Ability to Benefit tests or diploma mill use are widespread—nor does the GAO. In fact, the GAO says in its report, "GAO's findings do not represent nor imply widespread problems at all proprietary schools." To the extent that admissions problems exist, they are not found exclusively in the career college sector.

Yet one episode of cheating is too many. We support the GAO recommendations to increase Department of Education oversight of ATB testing. Our members maintain lists of diploma mills, and we support the GAO recommendation that the Department of Education provide a list of diploma mills so that schools will not have questions about the legitimacy of a degree. We support appropriate actions against testers or schools operators who are found to have violated the law. We look forward to working with the Department and other stakeholders in the upcoming negotiated rulemaking which will have ATB and diploma mills on the agenda.

Putting the Situation in Context

When considering situations where someone in a school crosses the line, context is critical. Take the example of Ohio, where approximately 300 career colleges educate some 75,000 students. Last year, the State Board of Colleges and Schools reported just six non-student complaints related to advertising and recruitment and just 10 non-student generated complaints overall. The Board reported 58 student complaints, with just five related to admissions problems. Note that complaints are just that and are not necessarily found to have merit. When investigated, oftentimes they are found to have no merit.

In its report, the Ohio Board found much to praise about career colleges in the state:

"Placement statistics compiled in this report indicate that 81% of the individuals who complete their education find employment following their graduation. Ohio's career colleges and schools have been of great assistance in helping unemployed adults to find jobs. Some of the schools work closely with government agencies like WIA and Vocational Rehabilitation, and in some cases, employers, to assist in paying the cost of these training programs. Through this effort, career colleges and schools are

removing some people from public assistance and once again making them taxpayers.”⁴

The report calls Ohio’s career colleges “a positive, economic asset to the State, both as businesses and as educational institutions for several reasons. First, career college and school graduates make a continuing contribution to the economy because of their improved productivity. Graduates of these institutions have higher personal incomes and pay more taxes. Second, career colleges and schools are businesses that pay salaries, buy goods and services from other businesses and pay taxes to the local, state and federal government.”

According to the report’s findings, career colleges generate \$450 million in economic activity in Ohio and pay \$37 million in taxes. Moreover, were there no career colleges in Ohio, the Board estimates that the state would be paying an additional \$75 million to educate these students.⁵

Job placement assistance is one of the most attractive aspects of career colleges and placement in field is a key to success in student loan repayment. To retain their accreditation status, institutions accredited by the Accrediting Council for Independent Colleges and Schools must maintain a placement rate of 65 percent. In 2008, ACICS accredited schools had an overall placement rate of 71 percent.⁶ Other national accreditation agencies have similar placement requirements.

Cohort Default Rates

In a perfect world, no students would default on Federal loans. And there is a way to achieve close to that perfect world—only lend money to students who are well to do or have well to do parents.

But we know as a society, as an economy, that is not an acceptable policy path, because such a policy would discriminate against the poor, against lower middle income families, and against minorities. It would prevent millions of capable students from pursuing their American dream by obtaining a post-secondary education. It would lower the standard of living for our citizens, making us less globally competitive and locking generations into cycles of poverty.

So we have a Federal student lending system that is open to all and accept the fact that such a policy carries some risks given the socio-economic status of the students. And, sure enough, we find that at institutions that accept lower income students and working adults, the average default rate of students is higher than that at traditional elite institutions. The GAO report makes the same point. Some students who graduate will not be able to repay their loans, even with their sheepskin. Those who do not complete usually have a much higher default rate.

This higher default rate is true of most, but not all, community colleges, minority serving institutions, and career colleges, as the GAO indicates. CCA does have member institutions with default rates as low as the most elite traditional institutions, but we also have those with higher default rates, often those in inner cities and other low income areas. The average across all career colleges is now 11%, slightly higher than the 9.9% for community colleges.

The current difficult economy, with so many unemployed or underemployed, is likely to lead to even higher default rates next year, just as it is leading to higher defaults in home mortgages, automobile loans, and credit cards.

However, it is not the policy of our sector simply to accept higher defaults as inevitable and unavoidable. We work aggressively as an Association and as a sector to minimize student defaults. Our Default Prevention Initiative (DPI) began in early 2003 as a way for CCA member institutions and members of the Department of Education’s Default Prevention staff to share best practices in late state delinquency. The group evolved to its current form, with an active group of 40 institutional personnel, Department representatives, and CCA staff.

Over the past year, the school members worked to gather data on the characteristics of defaulters at various stages (early missed payments, late stage delinquency and defaulters) and developed strategies for identifying potential defaulters before the first late payment. Our goal is to use previously identified best practices to provide additional loan counseling and financial literacy education.

Currently, the DPI is working on developing a student loan default prevention program more rigorous than would be required by the Secretary should an institution be above the CDR threshold. The goal is to introduce this plan to the CCA membership at large as a tried-and-true default prevention plan and eventually to all of postsecondary education as a means of reducing CDRs universally.

⁴ State Board of Career Colleges and Schools, 2008 Annual Report, page 12

⁵ Ibid, page 14

⁶ ACICS, Educating America’s Workforce: Key Operating Statistics, page 12

The CCA/ED DPI will include intervention strategies for all stages of student borrowing and potential default, from before the first loan is disbursed through all possible points of contact during enrollment, graduation or withdrawal, and repayment or delinquency and rehabilitation.

We support policy changes that will help students not default. We are very pleased with the passage last year of the Income Based Repayment plan that took effect July 1 of this year that will allow students to pay lower amounts when they first graduate and have a lower earning capacity, with payments increasing as earnings increase. And we support a change in the law that would allow financial aid officers to prevent students from overborrowing when their costs of education and/or post-graduation earnings capacity do not justify the loan amounts they are taking. I understand that the community colleges also support this idea.

We see no evidence that the type of isolated fraud found by GAO has more than a de minimis impact on default rates.

Proactive Compliance Programs

The record suggests that instances of fraud are few and controls exist to catch cheaters. That does not mean that we can rest on our laurels. Compliance is a subject on which I, my Board Chairman and other Members, and all of our leaders preach constantly to our members. CCA maintains an active compliance program educating our members across a range of issues, including admissions, required outcomes, financial aid, student records and other topics. We deliver this education through monthly webcasts, sessions at our Annual Convention, an extensive online library, feature articles in CCA's Link magazine, a Compliance Officer's Roundtable, and our annual Leadership Institute for next generation school leaders. In the 2+ years since I became CCA's head, we have conducted sixty compliance training sessions. State associations of career colleges also focus intensively on compliance training, including several that were offered at the Texas state association meeting last week. We urge our schools to attend training sessions put on by the Department, especially in the financial aid area, one of the most complex areas of law and regulation not just in higher education, but in the entire legal world.

Our schools carry out internal compliance programs, understanding the legal and reputational risks to their institutions. These include intensive training, oversight and review, internal and external audits, and even such tactics as "mystery shopping," in which schools hire outside firms to appear as potential students to ensure that admissions officers and financial aid officers are being accurate and informative in all their presentations.

The schools are all subject to what is referred to in higher education as the "triad of regulation," Federal Department of Education oversight, state regulation and oversight, and accreditor review and oversight. And they are reviewed daily by their customers—the students who attend.

Conclusions

The Career College Association and its members have zero tolerance for fraud in the admissions process or in any other aspect of school operations. Both the Association and its members maintain active compliance programs and seek to uphold the highest standards of ethical practice. From time to time, as with all types of institutions in higher education, individuals cross a line and engage in activity that abuses the system and harms both the school and its students. Such episodes are small in number and do not significantly contribute to elevated cohort default rates. Career colleges do better than other types of institutions in educating non-traditional students and working with them to complete postsecondary programs. That being said, non-traditional students are often those with the greatest social pressures and fewest financial resources starting out in life. It is not surprising, therefore, that studies would show that non-traditional students have the highest rates of loan default. CCA and its member schools are committed to working with all students to assure high rates of academic success, job placement and loan repayment.

Chairman HINOJOSA. Thank you. I wish at this time to ask Chairman Miller if he has questions for any of the panelists.

Mr. MILLER OF CALIFORNIA. Thank you, Mr. Chairman. And thank you very much for holding this hearing.

Mr. Scott, thank you for all of the work of you and your office. At the end of your testimony, you suggested that this was not—did not represent or imply a widespread problem in all proprietary schools.

And I have no reason to disagree with that, but I ask you to sort of marry your testimony with that of Ms. Mitchelson and ask you whether we have got additional problems here that we ought to be concerned about. I mean, you see what the I.G. is encountering in their—it is somewhat broader and across different fields of, unfortunately, opportunities to engage in nefarious activities.

Mr. SCOTT. Yes, Mr. Chairman, as I said in my statement, you know, we didn't intend our work, which is narrowly focused and only encompasses visit to a few schools, and so that is why we really wanted to make sure we properly characterize the scope of our work.

That said, given that these problems have continued, you know, even after, you know, the Office of Inspector General has pointed out these problems, we do believe they do rise to a level of concern that we believe it is important for Department of Education to take action.

Some of the steps Mr. Shireman outlined certainly sound very promising, but we are going to make sure we continue to monitor their implementation of those actions to address those weaknesses that we and others have identified.

Mr. MILLER OF CALIFORNIA. Thank you.

Ms. Mitchelson, one of my concerns is that, in the—I don't know why I am asking the GAO about the I.G. and the I.G. about the GAO, but we will get that sorted out—is that in a number of these—it seems to me the student is a bit of a pawn here. They are told they pass. They got a diploma from a diploma mill.

I am not saying they are not necessarily willing, but they may be willing because they are desperate to get an education and try to figure out how they can navigate. So let's assume a little bit of good faith there. Or they pass a rigid test, they take on this debt—in some cases, this is very high-interest debt—and then they don't thrive, they don't complete the system here.

They now end up with a debt, with a default, with a ruined credit report, and it seems to me all their problems just got worse. And yet, when I look at your report, it also suggests there may be some students who are figuring out how to game the system. If they can show up for the first day of college, community college or proprietary school, they can get part of that money back for their living expenses and what have you, and go on their way, and really not show up online, in class, or on campus, wherever the hell it is.

So we are kind of getting hit from both ends here, are we not?

Ms. MITCHELSON. Yes, sir. And there is effort needed by the department to clarify what the rules are in this area, both to protect the students and to protect the taxpayer.

In the online context right now, we don't really know—the challenges are to try to identify whether the student is actually who she says she is. Many times, nobody is required to show up in person, so it is hard to make an identification on the distance.

Secondly, is she actually enrolling because she wants to get the instruction? Or is she merely enrolling just long enough to get the financial aid, which she will then use for other purposes?

A third problem is, is she receiving the correct amount of aid? As you know, aid is delivered based upon credit hour. If I am taking 12 credit hours, I am entitled to a full aid package. Well, the

department has not defined credit hours. Neither the statute nor the regulation define what a credit hour is. So it is not clear whether the student, particularly in an online environment, is receiving enough instruction to justify the amount of credit hours she is receiving.

And the fourth question then is, should she drop out and not continue her study in that program, what amount of refund of student financial aid is due? What degree of instruction did she actually receive? Was she actually in attendance? Many schools do not require to take attendance, and so particularly in the online context, there is a lot of ambiguity about who is participating, for what purpose, how long, and whether they are actually due the full amount of financial aid.

Now, we have just done some work looking at the question of credit hour, because Mr. Scott mentioned the triad. And one of the triads is the accrediting agencies. Accrediting agencies are relied upon to determine what credit hours should be awarded based upon a particular program of instruction.

We went to three different crediting agencies and asked that question about, tell us how you make that judgment about what amount of credit hours is appropriately awarded in this situation? We found varying standards and, to some extent, no standards.

And that is a set of inspections that we will be issuing starting the near term, information that I think the department will find very useful as it takes up this issue in its negotiated rulemaking next month.

Mr. MILLER OF CALIFORNIA. Thank you.

If I might, Mr. Chairman, I would just like to ask Mr. Shireman a question.

Mr. Shireman, when I look at part of this, as I said, we are kind of getting gamed from both ends here, in some cases. But when I look at part of this, it sort of reminds me of where we were 2 years ago with liar loans and no-doc loans in the housing market, where people started accepting people who couldn't prove their income, couldn't prove employment, but we sold them a \$450,000 house. And that all came crashing down here.

I am a little worried when I see these tapes and I see these tests and I see the diploma mills outlined here that we are developing a process here that looks a lot like sort of subpoena student loans. And knowing that these people don't have the capacity to pay it back, knowing that they may not have the ability to benefit from this education, we go ahead and extend them the credit in the private market and in—because in the private market, you just keep adjusting the interest rate up until they yell, “No,” and in the federal loans programs.

And I just—as you listen to this testimony—and I see what you are doing, and I am delighted by the changes you have made, but at some point, I hate to say this, but, I mean, I think we are going to have to sort of develop a watch list on certain institutions, because if they become the feeder systems for subprime loans to these students, we have got a real problem here, and it is going to go beyond just the school, if you will.

It is going to be out in society, in terms of people inheriting this—you know, what can be a substantial amount of debt for their situation.

Mr. SHIREMAN. Yes, there is certainly—the reason to have the requirement of a high school diploma or passage of an ability to benefit test is to at least have some measure of confidence that the students are entering post-secondary education and will be able to achieve, get through those courses, perhaps get a degree, get the benefit of the income, and be able to repay their loans.

And when we fail to have the appropriate checks to make sure that they are qualified, we are not just potentially costing taxpayers, but also jeopardizing those students by putting them into debt for degrees that they are likely not going to get, not be able to get that employment. So we need to be vigilant.

We do—the statute requires and we do look at various types of risk factors in identifying the institutions that are subject to our program reviews. We look at dropout rates. We look at sudden large increases in the amount of loans or Pell Grants that might be going to an institution, default rates, volume of defaults, as well.

So we are always on the lookout for—and we are working with the inspector general and other kinds of risk factors that we can use to identify schools where our program review staff should be going to make sure that there is not anything inappropriate going on.

Mr. MILLER OF CALIFORNIA. You know, I just—I will finish with—Mr. Chairman, I appreciate my colleagues bearing with me here in a minute—but, you know, I have been reviewing and looking at—I guess it is, you know, one of these earnings calls that companies go on to discuss with the financial institutions, their prospective earnings.

You know, one of the very large proprietary operations, they are anticipating a 50 percent default rate on their loans that they make to their students. I just got to ask the question, so does that mean you just go forward, and if you can absorb that with respect to the financial markets, it is okay? Or do you have to figure out—and it is very hard to tell a student that, you know, you can't afford to do this or this isn't going to work out for you, but, you know, they are suggesting we can manage all this from an institutional point of view.

I am asking, what happens to the student out there? From their point of view, if you expect 50 percent of them to default on the private loans—but we will leave that open for a question, because—I mean, for an answer.

But I just—I am a little concerned here that we are not focusing too much on what happens to—let's just assume—good faith on part of these students and what they are being told, you know, they can handle or they can't handle at this point.

Thank you, Mr. Chairman, again, for holding this hearing. I think it raises a number of very serious issues going forward for all parts of the student loan community.

Chairman HINOJOSA. Thank you for your questions.

At this time, I would like to recognize myself for a few questions. And the first one is to Mr. Scott.

Can you share with us any positive experiences you may have had in your visits to proprietary schools?

Mr. SCOTT. Yes, Mr. Chairman. In some of our visits, we clearly learned that some of these schools are really providing good student supports to help these students, you know, persist and complete their certificate or program.

Now, as I said in my statement, you know, these schools often provide the access and opportunity for students who otherwise would not be able to pursue a post-secondary education. And so it was sort of, in one respect, reassuring to see that some of these schools are, in fact, taking the necessary steps to support their students.

That said, however, you know, we continue to have some concerns with some of the practices, and therefore, we do believe it is important for Department of Education to increase its oversight in this key area.

Chairman HINOJOSA. Well, that leads me, then, to the next question to you. You have identified problems in your testimony with the ability to benefit test abuse and point to weaknesses in the Education's monitoring of the test publishers who provided these tests to the schools. So what steps should Department of Education take to better monitor the ATB program?

Mr. SCOTT. Mr. Chairman, as I mentioned earlier, it sounds like Education has already started down that road, in terms of improving its oversight of test publishers. As you may know, in our report, we made a number of recommendations to the department to improve its oversight in this area, including providing, you know, sort of midpoint test analyses to try to more quickly identify cases of testing irregularities.

We also, you know, noted that the department needs to make sure that it is following up in cases where irregularities are identified more routinely. And so those are the number of other steps that we outlined in our report, we believe will help improve the oversight in this area.

Chairman HINOJOSA. Thank you.

I would like to ask the next question of Ms. Mitchelson. What challenges does your office face in combating fraud and abuse in the federal student aid programs?

Ms. MITCHELSON. Well, sir, I can sum that up in one word, and that is resources. You know, these are immense programs, and there are lots of participants. We have a very talented, multidiscipline staff that is highly skilled and well equipped. Having said that, we still have only approximately 300 people whose job it is to help oversee over \$782 billion worth of programs.

That is the department's annual appropriation, of around \$65 billion, the amount of money they—

Chairman HINOJOSA. How many more should we add to be able to get the job done?

Ms. MITCHELSON. That is an excellent question, sir.

Chairman HINOJOSA. I will let the secretary figure that one out. Yes?

Ms. MITCHELSON. Let me say that our challenges go beyond just adding bodies. We really need to find ways to do analytical work

where we can target the highest degree of fraud, the highest degree of risk.

For example, we took a look at the population of students that we think maybe have taken ATB tests in the fiscal year 2009. And by looking at those students who on their FAFSA did not identify that they either had a GED, a high school diploma, or were home-schooled, we assumed that the remaining population must have taken and passed an ATB test.

When we looked at fiscal year 2009, that amounted to about 11 percent of the population receiving financial aid in that year. And that amounted to \$12 billion. That is a lot of funds. These programs are so large and so expensive that, in order to do effective fraud deterrence, we are developing analytical tools that help us identify where the riskiest places are.

We have now approximately just a little over 90 special agents. Obviously, they are not going to be able to investigate, you know, a great deal of cases. Currently, we have pending about 430 cases.

Chairman HINOJOSA. Thank you for your response.

Ms. MITCHELSON. Thank you.

Chairman HINOJOSA. I want to be sure that I have time to ask Mr. Shireman the question—I have noticed and I have heard the president, so I know that the administration is strongly supportive of post-secondary education. And although your tenure is only a few months along, do you see or do you foresee some legislation changes the Congress might consider in the recent reauthorization of Higher Education Act or the now-pending WIA?

Mr. SHIREMAN. I expect that—well, first off, we are in the process of implementing those changes, the reauthorization of the Higher Education Act that you all enacted last year, which addresses some of the issues that we are discussing today, in particular, the issue of validating a student's identity in distance learning. So we have been in the process of finalizing regulations about what we will expect of accrediting agencies in that regard.

There are a number of other items like that where we need to implement what Congress has already done. There is legislation, of course, that was passed out of the House a month before last and what I would anticipate in the job training arena that there would also be Workforce Investment Act reauthorization.

So all of these are opportunities for us to take a closer look at program integrity generally and ways that we—particularly in the job-training realm—ways that we might work with Department of Labor and Department of Education to better connect the training opportunities with the needs of the workforce.

Chairman HINOJOSA. Well, in closing, I want to say that I have noticed the willingness by the secretary of education and the secretary of labor of coming together and communicating so we can, indeed, do what you just ended your statement with.

My time has run out, and I would like to yield time to Ranking Member Guthrie.

Mr. GUTHRIE. Thank you, Mr. Chairman.

You know, there were some—a couple of really good points I just want to reiterate myself that Chairman Miller, Mr. Shireman made about these students going into—you know, if you are a nontraditional student, which is typically without a high school diploma,

and you show up in post-secondary education, it is usually because some trauma has happened in your life, you have lost your job, so you are getting back into the—so putting them further in debt.

Another thing, putting somebody who is probably lost a little confidence, losing their job, into a classroom where they are not going to be successful, if the ATB is a predictor of being successful, if it is valid, then—you know, that is a moral problem, as well. And thanks for this hearing to check that out.

But about the ATB, I know that we have a problem now with the diploma mills we are talking about, but one of my questions is why—Mr. Miller, why use the ATB as opposed to requiring a GED?

Mr. MILLER. Mr. Guthrie, the simple reality is that some people who are down on their luck, that maybe they were discouraged from going to high school, maybe they are immigrants, they simply are never going to be successful in passing a GED. And we as a society have to make a decision as to whether to cut them off from post-secondary education or not.

The reality is that we have decided as a society, this Congress has approved, the department has approved admitting these students, because we believe they deserve another chance, they deserve a chance to get the education, get the skills they need to more into a career which puts them into the middle class. And I think we all should support that.

The department recognizes, even though, obviously, some improvements are needed based on today's hearing, that this does run some risks. And I think the thickest—one of the thickest parts of the regulations, Mr. Chairman, if I am not mistaken, are the regulations about ATB testing.

Even though there are relatively few students involved—Ms. Mitchelson said about 11 percent of those who receive federal aid, probably about 5 percent of all students—the department is very cognizant of this and has created a lot of rules and regulations that, if properly enforced, should make sure that only students who are truly qualified pass the ATB test and then have a good chance of completing and getting the degree and the new job opportunity which they seek.

Mr. GUTHRIE. Thank you.

And then, for Mr. Scott, I have a question. When you selected schools to do your investigation, I mean, how did you select those? Did you randomly select schools and, all of a sudden, you walk in and you have something as obvious or as blatant as—we just saw something that couldn't be more blatant, blatantly wrong.

I mean, did you have some kind of insight into that particular school to attend? Or is this—did you just randomly pick one and you found this type of fraud?

Mr. SCOTT. The school where we conducted the undercover visit and actually sent our analysts in was chosen primarily based on demographics. There was a local school here. And since, you know, we were unsure what we would find. We didn't want to invest significant resources and travel, that sort of thing, so we just happened to pick a local, you know, publicly traded proprietary school. And this is what we found.

Mr. GUTHRIE. And do you think that—I mean, obviously, we looked at proprietary schools in this GAO. Do you think that this type of issues could be at all types of different institutions, as well?

Mr. SCOTT. Absolutely. The rules apply to all sectors of the post-secondary education community. And so, you know, the things we found and the recommendations we made to the Department of Education would benefit all students across the sectors. Although our work was focused on proprietary schools, clearly, you know, these vulnerabilities can exist in other sectors.

Mr. GUTHRIE. Thanks. I appreciate that.

And then, also, again for Mr. Miller, I was at Sullivan University, which is a proprietary school in Louisville, as I mentioned, at graduation and noticed and talked to people after you noticed the demographics of the student body were more reflective of the city of Louisville than some of the other schools in the area.

And it just seemed like—and what I was told or was—and I believe it is true, because it was a very—highly regarded career college there, proprietary school, is the personal attention that they do give to the students. And there were a lot of first—because I asked that question, a lot of first-generation college graduates, non-traditional students getting their associates and diplomas and some getting masters', actually.

In your experience, is that how career colleges typically operate, with a lot more personal touch, do you think?

Mr. MILLER. Absolutely, Mr. Guthrie. That is one of the expectations that a student has coming to our school, and that is one of the expectations our schools have.

They see students as customers, not students as supplicants. And the reality is, Mr. Guthrie, that many of these students have challenges coming into a career college. They may have academic challenges and not have a particularly good education. Whether they are ATB, GED or even a high school degree, unfortunately, we know a lot of people come out with high school legitimate diplomas that are not prepared for post-secondary education.

They may have an issue of confidence. They may have an issue of family issues, dealing with childcare or dealing with a changing work schedule. So our schools put a tremendous amount of resources into staff support.

Let me give you just one interesting piece of data. According to Mark Kantrowitz, Dr. Mark Kantrowitz, the head of FinAid, he did a study earlier this summer, and he looked at what percentage of students at career colleges and the community colleges were Pell-eligible. And then he looked at the percentage of students who actually received Pell Grants.

And he found that at community colleges, less than 50 percent of the students that were Pell-eligible were receiving Pell Grants, whereas a career college is 97 percent receiving them.

Now, that is unfortunate for the students to go to community colleges, and I don't think it is because community colleges don't want their students to receive the federal aid which they are entitled to and which this Congress approved. It is because often a community college simply doesn't have the financial staff to assist an applicant to fill out what we all admit is a very complicated application proc-

ess that I know Mr. Shireman and this Congress are trying to simplify.

But I think that is a perfect example, Mr. Guthrie, of the focus on personal attention. The other thing that is important is that, when you go to a career college, you are not going to grow up. You are not going to learn to drink beer. You are not going to root for your football team, the reason that a lot of people go to traditional colleges.

People go to career colleges because they want a career. They are very focused. And so from the day you walk into our institutions, the institution is structured to support you in getting your career, how to write a resume, how to—basic work habits, giving you information that is current in the employment market, in the career market, so you are being trained for what would get you that career. Now, that is what our students want, and that is what we provide.

Mr. GUTHRIE. Thank you. I yield back.

Chairman HINOJOSA. Thank you.

At this time, I would like to recognize the gentlewoman from Ohio, Congresswoman Fudge.

Ms. FUDGE. Thank you very much, Mr. Chairman. And thank you for holding this hearing today.

I want to thank career colleges and those who have been working so hard to make sure that nontraditional students have an opportunity for careers, but I do have a couple of concerns.

One, of course, is that many students, obviously, who take the ATB do very well, but many of these students are purposely, I think, targeted for failure, based upon the fact that they are put in institutions they know they can't finish. I mean, they really do know that these students are not prepared to go forward.

So I would just like to know, what, if any, sanctions are appropriate for institutions that are found to be fraudulent? And if there are none, what should there be?

Mr. SHIREMAN. I will start on that one. Well, an institution that enrolls students and provides them with federal financial aid, if those students were not eligible for financial aid, that becomes—they have to repay those funds to the federal government. If it was purposeful, then we would likely refer that to the inspector general, others, and there would be possible criminal action in relation to that.

But if it was carelessness on the part of a college, it becomes a liability. Those are the kinds of things that we do find in compliance audits and our program reviews of institutions. So there are consequences for a school in enrolling those kinds of students.

There is not any minimum level of dropout or graduation rate, for example, that is expected of an institution, so there is not a penalty, per se, for something like that. However, that is one of the risk factors that we look at in identifying institutions that should be subjected to a program review.

Ms. FUDGE. So in the instance that Mr. Scott displayed for us, what would happen to that institution who purposely was violating the rules?

Mr. SHIREMAN. Right. Well, what we don't know in this situation was, was this the individual? Was this the testing company? Was

this the institution? What was the intent? Who made what kinds of instructions to whom? So depending on what we or others found about the situation and what the real pattern was, that would determine where some liability might lie.

Mr. MILLER. Congresswoman, there is the regulatory points, which Mr. Shireman made. There is also the accreditation process. If a school is nationally accredited, and the national accreditors themselves are subject to approval by the U.S. Department of Education, most of them do have graduation completion rates and placement rates as a criteria for maintaining that accreditation.

And if a school fails to meet those requirements, fails to prove to the oversight accrediting body that students are graduating at a rate that is set out by the accrediting body, and/or is to failing to place students in their chosen career field, then they can be put on provisional status by the accreditor. And if it is repeated, they will lose their accreditation. If they lose their accreditation, Congressman Fudge, that means they lose the ability to have their students eligible for Title IV funds. So it is a very serious risk they run.

The other point I would make, Congresswoman, is the basic place that our schools get their referrals—even though there is a lot of talk about marketing and advertising—but if you talk to any of our schools, large or small, the basic place they get sources of students is referrals, personal referrals.

And the students who come to the schools almost always talk to someone else that they know personally, a relative, a friend, an employer that they trust, just the way you decide to go to a movie based on what your friends say or you may decide to buy a car based on what your friends say. Our students talk to somebody else.

So if you are running a sham school, if you are not really providing quality education, then you are not going to be getting those referrals. In fact, you are going to be getting negative referrals, because people are going to say, “Don’t go to that school,” and you are not going to enroll the student, because when the prospective student checks with his friends or neighbors or relatives.

The last point I would make, Congresswoman—and I don’t think this is fully appreciated—is you are going to be a very unsuccessful school financially if you are just churning students. The way a school is able to be profitable, grow, have money to invest, expand, is by getting students, keeping them, graduating them, and making sure that you have a quality outcome for the students, because ultimately, if you are just turning students over and just churning them over, you are not going to have a good reputation, you are not going to be able to place your students, you are not going to get the referrals, and you are going to be out of business.

The students are smart. They understand—they shop on the Internet. They talk to their friends. They have a lot of sources. They have a lot of competition in major cities now. Many of our schools are competing with one another.

So schools that are not playing by the rules, that are not turning people out, that are not graduating students, yes, a few may get away with it here and there—and that is the job of the I.G. to investigate that and the accreditors to investigate and the state de-

partments to investigate—but if that were the rule, not the exception, these schools would not be growing, these schools would not be successful.

Ms. FUDGE. Thank you, Mr. Chairman. I yield back.

Chairman HINOJOSA. Thank you.

I now call on the gentleman from Minnesota, Congressman Kline.

Mr. KLINE. Thank you, Mr. Chairman. Thank you for yielding time and for holding this hearing. This is a terrific panel that we have. Again, I am always excited when we have a panel of real experts, and that is what we have here today, so I want to thank the witnesses for your attendance today, for your testimony, and for addressing our questions.

Today, we have—this report—the GAO report is focused entirely on proprietary schools, that sector. And, Mr. Scott, in response to an earlier question, you indicated that other sectors in education accept students through the ATB test process, and so they may be subject to some of the same problems. Can you tell me—do you know, is the GAO looking at the rest of the schools, beyond the proprietary sector?

Mr. SCOTT. Mr. Kline, the work that was requested by Chairman Hinojosa asked us to focus specifically on proprietary schools. So, no, we are not looking more broadly across other sectors.

Mr. KLINE. Okay, thank you. That is what I assumed. I just want to get it straight here.

On the fraudulent activity, again, were you able to determine—and make sure I have got this clear—that this is not pervasive throughout the sector?

Mr. SCOTT. As I mentioned earlier, the scope of our work was narrowly focused. We visited a few schools in the undercover investigation that we conducted, took place at one school. So I am not really in a position to say. GAO is not really in a position to say whether this is widespread or not.

As I mentioned, you know, the fact that this has continued, you know, despite prior I.G. work and the work of others, does cause concern. And so we think, at the end of the day, this is really about protecting students, protecting the taxpayers and the integrity of our higher education system.

So it is important for the Department of Education to really step up here and improve its oversight of this area.

Mr. KLINE. And look across the board.

Mr. SCOTT. And look across all sectors, absolutely.

Mr. KLINE. Right. Okay. Thank you very much.

Mr. Miller, since we are talking about proprietary schools, career colleges, and you are here representing them, just a couple of comments and questions. I come from a district where I have got every sector represented, I have got some very fine, traditional, 4-year colleges located in the same city, which I always find interesting, so they have a cross-city rivalry there in Northfield, Minnesota. I have got some wonderful community colleges. And, of course, we have quite a large number of career colleges and across a wide array, some of them granting master's degrees and PhDs, and some A.A.s and so forth.

And it seemed to me—and I visited all of them, even walked out of my district and visited the giant University of Minnesota. It is big enough to be a lot of districts. But it seemed to me—I mean, it was pretty clear to me, as I was visiting the career colleges, that they seem to be pretty nimble in adjusting to the work demands and the need to shift careers. And that, I suppose, applies to the name of career colleges.

But as we see the economy in shambles and unemployment continuing to rise, there is this demand for a shift in careers, a shift in jobs in many places, and the career colleges seem to be adjusting to that, and we are picking up students for everything from pharmacy assistants to nursing and—why do you think that those career schools are able to do that, to make that adjustment?

Mr. MILLER. I agree with your assessment, Mr. Kline, and it is because we are single purpose. Traditional colleges and universities, community colleges serve a whole series of missions and functions. They have a lot of different groups they have to respond to: trustees, faculty, alumni, all of whom are pulling in different directions, lots of fights about what kind of programs, they would have, football coaches, sometimes.

Mr. KLINE. You don't have any alumni pulling in any direction?

Mr. MILLER. We listen to our alumni, but our number-one customer is our student, always. Our number-two customer are the employers who hire our students. And that means that every single one of our members has a close relationship with the employer community in the locality in which that school operates.

And that enables two things, Mr. Kline. Number one, that ensures that the school is offering the coursework, the textbooks, the technology in the classroom that is current to the career opportunities, not teaching computer programming courses that were for computer programs that aren't being used anymore, and not using nursing technology that are in no hospitals today. They teach what is current today.

And secondly, Mr. Kline, that enables the school to work with the employers to make sure that the students have internships, externships, and most importantly, a chance to actually launch their career, because the employer community knows these schools, knows the quality of the students, so you have that constant dialogue.

Today, in Florida, for example, according to the Florida Department of Health, 56 percent of all new entrants into the allied health field in the state of Florida come from career colleges, even though we are only about 12 percent of the students in the state of Florida. Well, Florida needs a lot of health care workers. It is an older population. They need it. And so our schools are ramping up their programs quickly because that is what the employment market demands.

Mr. KLINE. And that addresses the issue of how you are getting such—what it appeared in my district, that the career colleges had a very high success rate in actually placing their graduates in jobs. And I think that—I was going to go into that, but I think you have covered that there with your answer, that it is this close working—focusing on the needs of the students and their career aspirations and the employers.

And I applaud the schools that I visited in your sector for doing that and hope that the rest of my very fine schools are going to be able to do, as well.

Thank you, Mr. Chairman. I yield back.

Chairman HINOJOSA. Thank you.

I now call on the gentleman from the great state of New York, Timothy Bishop.

Mr. BISHOP. Thank you, Mr. Chairman. Thank you very much for holding this hearing.

And to the panel, thank you all for your testimony.

I want to focus on the issue of test administration. My understanding is that current regulations require the ATB test to be administered independently, but our definition of independent is a rather liberal one. That definition would allow for on-campus assessment offices to provide the testing.

Am I correct in that, Mr. Shireman?

Mr. SHIREMAN. That is my understanding, yes.

Mr. BISHOP. All right. So my question: Mr. Scott, do you know if the two examples you cited of the—where there was clearly fraudulent behavior taking place—were the testers, were they truly independent of the school for which the testing was being conducted? Or were they employees of the school, but independent of the admissions office?

Mr. SCOTT. My understanding from our undercover visit, that the independent test administrator was contracted, was under contract. It is not clear in terms of, you know, whether they were contracted by the test publishers or by the school itself, but they were certified, you know, by the test publishers to be eligible to administer tests.

Mr. BISHOP. Okay. But eligible based on a rather liberal definition of independent, correct?

Mr. SCOTT. Consistent with, yes, current rules.

Mr. BISHOP. The House version of the Higher Education Act that we passed, whenever that was—a year-and-a-half ago or longer—included a provision that, if a school enrolled more than 5 percent of its Title IV-eligible population under ability to benefit testing, that the test, the ability to benefit test, would have to be administered by a truly independent entity, that it could not be an employee of the school in some other department. And that provision was knocked out in conference, so it was not in the final Higher Education Act.

If we were to make such a provision law, do you think that might help us deal with at least a part of this problem?

Mr. SCOTT. Mr. Bishop, in light of, you know, some of the problems we and others have identified, I think that—you know, there are clearly opportunities to improve oversight of this area.

I mean, currently, you know, the Department of Education is already in a position to take certain steps that we think would help address certain vulnerabilities. So, at a minimum, I would expect the department to follow through on some of the things Mr. Shireman pointed out, in terms of steps it is in the process of taking to improve oversight of ATB testing.

Mr. BISHOP. Ms. Mitchelson, do you think that provision might help to mitigate this problem somewhat?

Ms. MITCHELSON. It does sound as though it would be a provision that would take a step toward integrity, yes.

Mr. BISHOP. Okay, thank you.

Mr. Shireman?

Mr. SHIREMAN. Yes. In fact, those are the kinds of things that we will discuss in the context of the current rulemaking, as well as we are developing the ability for us to know what percentage of a school's population is there under an ability to benefit test, which will also help in our monitoring, with or without any particular rule applied to those institutions.

Mr. BISHOP. Let me go to a somewhat different suggestion. Mr. Miller, I mean, and I know that the GAO study focused just on proprietaries. I also know that this is an issue for any non-selective or open admission school.

The other way that a student may qualify for Title IV money is to earn six credits with a reasonable average and show that he or she is capable of post-secondary-level work. Would there be any interest in a pilot program for schools to allow a student to enroll for six credits at no charge to the student, to demonstrate that they can handle post-secondary-level work?

My thought here is that, unless the population that is—that would be subject to such a pilot program is too large, I mean, there would be no marginal cost to the institution. If you are going to enroll 15 students in an entry-level course and now you are going to enroll 18, you are not going to add an instructor.

So would there be any interest in trying that as a pilot program, to see if students truly are capable of post-secondary-level work? And that would then allow us to offer loans to them once they fully enroll with greater confidence that they can succeed, greater confidence that they will repay. Any interest in that?

Mr. MILLER. With your usual brilliant insight, Mr. Bishop, some of our schools are already trying this.

Mr. BISHOP. Okay.

Mr. MILLER. Whether they—

Mr. BISHOP. See, I have never had an original idea in my life, so this is—

Mr. MILLER. Whether they—this is their competitors, of course, though, whether they would be willing to allow me to anonymize and share it with you, I can talk to them about it. But I do know some of our schools have been experimenting in this area, because they feel it is best for the students and ultimately for the school itself, that they know these school students are high risk.

Actually, Mr. Bishop, what we haven't talked about is the fact that some of our schools, candidly, are cutting way back on ATB students, and that is a blessing and a curse for our society. I mean, it is a blessing, one can argue, because it is more likely that you are not going to have fraud and not going to have the problems and not going to have the negative outcomes that frequently occur with ATB students, even those who are legitimately enrolled.

But for our society, for the purposes that President Obama articulated in his speech in February, which many members on both sides of this aisle have talked about, the need to have a more highly educated workforce and not drop to 12th or 14th in the world, where we are today, in terms of post-secondary education, when

our schools, the schools who try to be open, in many cases, are cutting back on ATB because of concerns about cohort default rate, because of concerns about 90-10, because of concerns about failure to graduate and not meeting their accreditation standards, is that good from the societal point of view? I would argue, as a citizen, it is not.

Now, maybe that is what they have to do, as self-interested parties, to stay inside the lines that we have all drawn. But I will tell you candidly: That is what occurring, that many of our schools are beginning to cut back on their ATB population, and I am not sure that is good for our society, but that is sort of in the box that many of them are finding themselves in.

Mr. BISHOP. Thank you.

I yield back, Mr. Chairman. Thanks.

Chairman HINOJOSA. Thank you.

I now call on the gentleman from Colorado, Congressman Polis.

Mr. POLIS. Thank you, Mr. Chair.

A question, you know, for Mr. Scott, two questions, actually. In your report, you discuss a number of the factors related to higher default rates, including the demographic characteristics of the borrowers, their success in school, the characteristics of their loans, their repayment options.

However, it seems that pricing and availability of institutional grant aid would also be critical factors and are also a critical variable. Despite serving a high share of low-income students, tuitions and fees at the for-profit institutions are among the highest in post-secondary education. And given the profitability levels, one would think that they could offer significant grant aid to their students. Some do; some don't. And an evaluation of their efficacy could be valuable.

So my first question is if you can explain why pricing and grant aid were not discussed in your report. Secondly, are there any studies that you are aware of that compare default rates for students attending proprietary, public, and nonprofit institutions that control for student characteristics to allow for an apples-to-apples comparison that could shed light on issues of quality by comparing the actual default rates over time and how they differ between the graduates of public, proprietary, and nonprofit institutions?

Mr. SCOTT. In response to your first question, the scope of our study was really limited to the—in the respect that we were asked to look specifically at the cohort default differences across, you know, a variety of institutions. We were not asked to sort of look at other factors, you know, such as institutional based aid that, you know, clearly would play some role in that.

In terms of your second question, our report did contain some comparisons of cohort default rates across a number of sectors. However, you know, by and large, as we point out in our study, the general research that we saw in this area is pretty limited, and so we were really constrained to sort of looking at the existing research.

Mr. POLIS. Thank you.

Mr. Shireman, in addition to the surge in demand in proprietary schools for federal student loans, proprietary schools have the largest proportion of students taking out much higher cost private

loans and the largest increase in private loan borrowing: 42 percent of all proprietary school students have private loans. Students attending for-profit schools composed about 9 percent of all undergraduates, but 27 percent of those with private loans.

Even more troubling, about two-thirds of the private loans borrowers borrowed less than they could have in the Stafford Loan program, compared to less than half of private loan borrowers.

As Congress is expanding and making even more safe and reliable the federal student aid program, how can we encourage students to exhaust every last dollar of the lower cost federal aid options before turning to high-cost private loans that aren't eligible for the deferment income-based repayment or loan forgiveness options that come with federal student loans? Do you think that schools should be required to inform prospective students of these federal loan measures or the default rates?

Mr. SHIREMAN. We are very concerned about the amount of debt that students are taking on, whether that be federal student loans, as well as private loans, that do tend to have much higher interest rates and lack the kind of consumer protections that federal loans have.

The previous administration did begin a campaign, really, a federal aid first effort to make sure that students and colleges did more to help students be aware of the availability of federal loans. We are noticing in this current economy a lot of families had assumed they weren't eligible for federal loans and were pleasantly surprised to find out that they were, once applying.

We do think it will help to simplify the FAFSA to make that—some of the advertisements for private student loans say, you know, easy to apply, easier—you know, no FAFSA required, things like that. So getting that complicated FAFSA out of the way could help for those who don't take—who aren't using federal loans at all.

I think the toughest question is a question of students who for some reason, they do have some federal loans, but they are not taking full advantage. And we need to take a closer look at what is happening in those situations and whether it is the school not having enough information about levels of—potential levels of borrowing students could take out, so that is an area where we need to get a better handle on what is going on in those situations.

Mr. SCOTT. I would just second Mr. Shireman's statement there. I think the level of student debt across all sectors in a post-secondary education world is of concern. And I think the area in particular that we should be concerned about is, you know, the level of financial literacy among parents and students when it comes to, you know, deciding how best to pay for college, and in particular in instances where students are not, you know, sort of maximizing their federal student aid options before going to other non-federal options. And I think that is an area where further study is definitely warranted.

Mr. POLIS. Thank you. I yield back.

Chairman HINOJOSA. Thank you.

At this time, I would like to call on the gentleman from Pennsylvania, Congressman Altmire.

Mr. ALTMIRE. Thank you, Mr. Chairman.

Ms. Mitchelson, when the GAO did their investigation, they sent its staff into a school posing as prospective students and intentionally failed ATB exams to test compliance. And I wondered, under your umbrella at OIG, is that a technique that the OIG uses as part of its work, as well? And what do you think about the use of that technique?

Ms. MITCHELSON. Yes, sir. We have used that a number of times, and we do—we will continue to use it as appropriate. It is a very effective technique to develop an individual case against an individual tester, which sometimes then can be related back to a school.

Mr. ALTMIRE. Thank you.

And, Mr. Miller, similar to that, the CCA uses audit tactics such as mystery shopping to ensure that schools are not committing fraud in admissions and financial aid. And does your evidence from these exercises indicate the same results as the GAO investigation?

Mr. MILLER. Unfortunately, once in a while, Mr. Altmire, there is a case. And, of course, that summarily leads to firing of the employee, whether it is an admissions representative or a financial aid officer. Generally, we find these cases rare, but any school focusing on compliance—and I hope that is all the CCA members, because we have reached compliance all the time—has a mystery shopping program.

The simple reality is that humans are fallible and they make mistakes. Obviously, sometimes they are apparently intentional mistakes—this is the one Mr. Scott demonstrated earlier—sometimes for inadvertent mistakes, that they simply, even with all the training, they don't understand. And that is why our schools focus so much on compliance, including anticipating the situation that a person will either intentionally mislead a prospective student or unintentionally, but in both cases our schools engage, usually hiring an outside firm, often headed by a former law enforcement person, who will come in and do mystery shopping to try to make sure that the people at ground level, actually talking to the students, are telling them the truth.

Obviously, we do not control directly the testing companies, but we support the GAO recommendation that there needs to be aggressive oversight of the testing companies for the ATB program.

Mr. ALTMIRE. And, Mr. Miller, also, one of the concerns that you highlight—high default rates at CCA institutions, especially from inner cities and low-income areas, which you have talked about at some length, does the CCA identify targeted institutions for specific monitoring or default prevention? What is your process there?

Mr. MILLER. The CCA does not do that itself. The accrediting agencies do. And as Mr. Shireman said, that is often a yellow light that goes on when the department itself is deciding whether to do a detailed program review.

But what we have tried to do, Mr. Altmire, is to come up with best practices, to find out from our schools—many of whom have very low default rates, Mr. Altmire. We recently had an article in our quarterly magazine, we have a welding school where the default rate is less than 0.5 percent. And in the GAO report, Mr. Scott and his colleagues reported that they found many schools in our sector with very low default rates, including even a few in

inner cities. So, clearly, they are doing something different, doing something better.

And so our purpose at CCA, working in conjunction with Mr. Shireman and his colleagues at the Department of Education with our default prevention initiative, is to take those best practices and make sure they are dispersed widely through our association so that our members know what works and what doesn't work.

Mr. ALTMIRE. Thank you.

And lastly, Mr. Shireman, the GAO report highlights the use of invalid high school diplomas to inappropriately gain access to financial aid. And as Mr. Scott pointed out, these students who are unqualified are at risk of dropping out of school, incurring substantial debt, defaulting on their loans.

And I was wondering what your opinion is on striking the balance between having unqualified students who have no business being in a higher education setting of any kind versus giving an opportunity to troubled kids who have had hard times in their life and maybe on the surface might not look like a good prospect, but giving them that opportunity that could pay off for society in the long run?

Mr. SHIREMAN. Well, I think it makes sense to provide opportunity. It is useful to use something like a placement test or an ability to benefit exam so that the students are provided with the kind of instruction that meets their needs, to increase the likelihood that they will succeed.

So I think it should be done carefully. And we certainly don't want to be, if we know that they are not well prepared, throwing them into a program where they are likely not to complete, especially if it is a program where they are taking on student debts that they are likely not going to be able to repay.

Mr. ALTMIRE. Thank you.

Thank you, Mr. Chairman. I yield back.

Chairman HINOJOSA. Thank you.

I would like to at this time call on Congressman Andrews from New Jersey.

Mr. ANDREWS. Thank you, Mr. Chairman.

I would like to thank my friend, Mr. Courtney, for letting me go out of turn. I appreciate it.

I thank you for holding this hearing. I think that the work that you are doing here, the subcommittee is doing on fraudulent administration tests is very important. Test integrity is very important. I think there is unanimity among the panel members that that is the case.

I wanted to also talk about the loan default problem. And, Mr. Scott, as usual, the GAO has done exemplary work in examining this area. Thank you for the excellent report that you have written. And I wanted to walk through some of the issues in it.

First of all, does the academic research tend to indicate that students who are nontraditional students, which I believe is defined as 25 and over, for purposes of this, are more likely to be loan defaulters than conventional students?

Mr. SCOTT. Mr. Andrews, as I said, based on the limited research, we did find a number of characteristics associated with higher default rates. I mean, that included, you know, for example,

you know, being more nontraditional students, family income, parental education of the parent. So there are a number of factors in that research.

Mr. ANDREWS. Was one of those factors also financially independent, that students who were financially independent had higher instances of default?

Mr. SCOTT. I don't recall. I would have to look that up.

Mr. ANDREWS. And I think there was also a gender issue, that women tend to have higher default rates, as well. The reason I raise this question is that, is there any research that has been done on the effect of the combination of these factors on default rates? In other words, if there are four or five indicia which tend to lead toward higher default rates, is there any research on what happens when you combine those indicia?

Mr. SCOTT. Based on the limited studies that we looked at, I think there was some research that pointed out that, you know, there are a combination of factors. I would have to look back—I would have to research to see whether there was some regression or some other analysis that looked at all of those factors in combination.

Mr. ANDREWS. Yes. And I do think I read in your report that the proprietary sector has a disproportionately high share of students that have some of those indicia of default problems, right, so that—if I read this correctly—students over the age of 25 make up 56 percent of the student body at the proprietary schools, only 35 percent at the publics, and 38 percent at the private nonprofits.

Students at proprietary schools make up 76 percent—or, rather, 76 percent of the students at proprietary schools are financially independent of their parents, whereas it is only 50 percent at the publics and 39 percent at the private nonprofits. And I think the income data would reflect that, as well.

I think we would be interested in seeing more robust research by GAO in this area, for this reason. I think we want to be very—certainly, I think there is unanimity that we want to discourage student loan defaults. I think everyone here agrees to that.

But I think it is important that we not run the risk of mischaracterizing the ownership of a school with the problem of student loan default. Would you agree that there is nothing in the record that would suggest that the form of ownership of a school is a causal factor of the rate of default?

Mr. SCOTT. I mean, that is clearly the balance we were trying to strike in our report, while pointing out, you know, as Mr. Miller and others have stated, I mean, clearly, proprietary schools are offering opportunities to students who probably otherwise would not have access to post-secondary education.

And so we want to make sure that, you know, we didn't try to draw some causal link there between the type of school or the sector of school. And we really wanted to see what the research said. And the limited research we did look at pointed more to student characteristics as being key indicators of default rather than type of ownership.

Mr. ANDREWS. That is right. So I would just repeat that, that because the report seems to indicate that student characteristics are more causal in the area of defaults than ownership characteristics,

I think we would be interested in some regression analysis that could be done on those points.

If you follow, that if we could identify the key factors that drive loan default, we could then reduce defaults, by focusing on those factors—on the very serious problem.

The other thing I want to ask you—the data show that, not surprisingly, loan defaults climb as students are further away from their graduation. So, for example, for the traditional private non-profits, there is a 3 percent default rate after the—in the second year, 6.5 percent in the fourth year. In the proprietaries, it is 8.6 percent for the second year, 23.3 percent for the fourth year.

Is there any evidence that suggests that that jump in default is caused by defects in educational quality? Or would the evidence suggest that it is caused by other life factors, like losing your job or getting sick or going through a family crisis? What is the causal relationship there, do we know?

Mr. SCOTT. I am not aware of whether the research was able to sort of tease out what some of the causal factors are there. I mean, clearly, you know, to the extent that as students get further away from their education, life intervenes, especially when you are looking at populations who are traditionally disadvantaged, in some cases, first-generation students. There are a number of factors that will affect those students' abilities to persist and complete successfully and then go on to enter the workforce and be able to obtain—

Mr. ANDREWS. I see my time is up, and I appreciate it. I would just reiterate, then, if I read the GAO report correctly, you are not suggesting there is any research that says that the climb in default rates over time is attributable to lack of quality education? I am not saying it isn't, but you are not saying it is?

Mr. SCOTT. Right.

Mr. ANDREWS. Okay. Thank you. I yield back.

Chairman HINOJOSA. Thank you.

I certainly want to welcome Congressman Vernon Ehlers from Michigan and, if and when you wish to ask questions, I will be glad to recognize you.

At this time, I wish to call on Congressman Courtney from Connecticut.

Mr. COURTNEY. Thank you, Mr. Chairman.

I just wanted to follow up on Mr. Bishop's questions earlier, where he inquired whether or not there is more that we should be doing in terms of tightening up the statutes. I mean, the recommendations seem to be focused on administrative enforcement.

And, Mr. Scott, I would just—it sort of was silent on whether or not there are statutory changes, you know, that would help, in terms of this problem that your report identified.

Mr. SCOTT. You know, as I stated earlier, I believe that, you know, from our perspective, you know, while additional statutory changes may be warranted, we believe that the Department of Education is already currently in the position to take action on its own. And it sounds like from Mr. Shireman's statement that they are, in fact, doing that.

Mr. COURTNEY. Well, maybe this is kind of a simpleminded question, but I guess, in a situation where there is an open-and-shut case of fraud, which—you know, whether it was by OIG or self-reporting by the schools, I mean, is there some procedure for referring that to the Department of Justice? I mean, is there some criminal sanctions or other sanctions that people are exposed to?

Mr. SCOTT. Well, in the case that we highlighted here—and I would like to, just for the record, thank the Department of Education's Office of Inspector General. We work closely with them, and we did refer that case to the department's inspector general for further investigation.

Ms. MITCHELSON. Yes, sir. We commonly investigate these cases of fraud, and we work with the Department of Justice or a state prosecutor to bring the prosecution against the individuals.

And I might add to the litany of penalties that were addressed earlier, we talked about administrative penalties, criminal penalties, could be and could encompass prison time, probation, or restitution, and then a third penalty is civil fraud. The False Claims Act provides that the individual or the institution may be liable to three times the damages of the harm they cause the United States, plus an \$11,000 penalty for each false claim submitted. So those are the three common avenues of penalties that we find are levied against those individuals and institutions.

Mr. COURTNEY. Okay. Well, again, I got here a little late, so I apologize if you have already been over this ground before. I guess the only other question I just was wondering is that is—when people take these tests, I mean, is there some warning that is on there that, you know, maybe people should be alerted to, that, you know, they have got to do this by the book?

Mr. SHIREMAN. Do you mean in terms of the people who are administering them?

Mr. COURTNEY. And taking the test. I mean, that—you know, that if you, you know, act fraudulently, that you are exposed—

Mr. SHIREMAN. Right, right.

Mr. COURTNEY [continuing]. To some penalties.

Mr. SHIREMAN. I am not aware of anything. I don't know if my colleagues here are aware of anything like that that is on the actual exam.

Ms. MITCHELSON. I am not aware either, sir.

Mr. COURTNEY. Okay. Thank you.

All right. I would yield to Mr. Bishop.

Mr. BISHOP. Yes, I would just—if the chairman—with your indulgence, if I could just pick up. We right now have a situation where if a student—if an institution's default rate exceeds a certain threshold, they are subject to penalty where they would lose eligibility to administer Title IV programs for 2 years, have to apply for readmissions on it.

Does such a penalty exist—is it in the menu of penalties that could be visited upon a school that engages in the kind of fraudulent behavior that Mr. Scott uncovered?

Mr. SHIREMAN. Certainly, a school that engages in fraud could be subject to limitation, termination of their eligibility for financial aid at all under our, the Department of Education's, responsibility of affirming their ability to efficiently and properly administer federal

financial aid. So we certainly have that authority in these kinds of severe cases.

Mr. BISHOP. Has it ever been imposed for the kind of situation we are dealing with now, with ability to benefit testing being fraudulently administered?

Ms. MITCHELSON. Yes, it has, sir. We commonly work with the federal student aid office. When we have a successful prosecution against an individual or a school, we will then refer that matter to FSA for a debarment proceeding. And we have had some experience in ATB fraud cases.

Mr. BISHOP. Okay. Thank you very much. I yield back.

Thank you, Joe.

Chairman HINOJOSA. I want to be sure that I give Mr. Ehlers an opportunity, if he wishes to make a statement or to ask questions.

Mr. EHLERS. Thank you, Mr. Chairman. And I will not ask any questions. It has been one of those busy mornings again, but I wanted to drop in.

I do want to make a brief statement. And based on the experience I had some years ago when I first got here, we had a small college in my district run by people I knew well who were working at essentially a substandard wage and a faculty that was equally dedicated.

And they developed programs to try to get students who—from very limited educational backgrounds—in fact, to get parents, as well, interested in higher education, get involved in the program, and so forth.

The school eventually went out of business, primarily because the Department of Education was very suspicious of the school and felt that they were misusing the student loan program, et cetera, et cetera, for their own benefit, and they were not, both—and Senator Levin and I argued strenuously that these were good people trying to do something good in very bad neighborhoods. And we did not prevail.

So I am just saying that, Mr. Chairman, to let you know, there is two sides to some of these stories. And this was a case I felt where some really good effort was—based on good principles—failed because they didn't fit in the framework of law and practice as it was then observed in the Department of Defense.

So we shouldn't automatically assume that someone is trying to commit fraud when they are in a very tough situation like that. And I am sure you are very sensitive to that, as well.

So I am not saying go easy. Clearly, I expect you to really go after those who have done something wrong, but just make sure that it is people who have done something wrong.

With that, I will yield back. Thank you.

Chairman HINOJOSA. Thank you very much, Congressman. I have a great deal of respect for you, and I certainly agree with you, that not everybody is bad, not everybody is committing fraud, but those who do, I think, should be reprimanded.

Mr. EHLERS. Yes.

Chairman HINOJOSA. I also want to acknowledge the chairman—rather, the member of our committee, John F. Tierney from Massachusetts, who arrived. And if you have questions or wish to make a statement, please feel free.

Mr. TIERNEY. No, I appreciate the opportunity, but I am going to let it pass, Mr. Chairman. I am content to just listen to the witnesses and read their testimony, as well. Thank you.

Chairman HINOJOSA. Very well.

If there are no other questions, I would like to give my closing statement. I would like to thank our witnesses for their testimony, as well as my colleagues on this committee for their questions and comments today. This has been a very productive and informative hearing.

I commend the Department of Education for taking initial steps to address the GAO recommendations. It is clear that Congress needs to provide guidance and oversight in this sector of post-secondary education.

At the state level, the secretary may want to reach out to existing federally sponsored entities that have the capacity or that they are already involved in collecting student financial aid data to join this effort in accordance with regulatory guidance or directives of the department.

The Education and Labor Committee and this administration have been working diligently to increase affordability and accessibility in higher education. In the past 2 years, we have passed landmark legislation to make college more accessible and affordable. We have also encouraged states to keep tuition costs down so that students can go to college without carrying the burden of long-term debt.

In closing, I want to say that, as we continue to increase accessibility and affordability in higher ed, I urge the department to act on the GAO's recommendations and to take a much more active role in monitoring the practices of for-profit colleges and universities. We must do our due diligence to protect the interests of our students and their families.

Without objection, all members will have 14 days to submit additional materials or questions for the hearing record.

With that, I call this meeting and this hearing to adjourn.

[Whereupon, at 11:43 p.m., the subcommittee was adjourned.]

