S. HRG. 111–1000

EMERGING RISK? AN OVERVIEW OF THE FEDERAL INVESTMENT IN FOR-PROFIT EDUCATION

HEARING

OF THE

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

SECOND SESSION

ON

EXAMINING AN OVERVIEW OF THE FEDERAL INVESTMENT IN FOR-PROFIT EDUCATION

JUNE 24, 2010

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C O N T E N T S

STATEMENTS

THURSDAY, JUNE 24, 2010

ADDITIONAL MATERIAL

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EMERGING RISK? AN OVERVIEW OF THE FEDERAL INVESTMENT IN FOR-PROFIT EDUCATION

THURSDAY, JUNE 24, 2010

U.S. SENATE,
COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS,
Washington, DC.

The committee met, pursuant to notice, at 10:07 a.m. in Room SD–124, Dirksen Senate Office Building, Hon. Tom Harkin, chairman of the committee, presiding.

Present: Senators Harkin, Murray, Sanders, Brown, Hagan, Merkley, Franken, Bennet, Enzi, and Alexander.

OPENING STATEMENT OF SENATOR HARKIN

The CHAIRMAN. The Senate Committee on Health, Education, Labor, and Pensions will come to order.

For more than 50 years, the Federal Government has provided students with grants and loans to help pay for college. That is a public/private partnership between the government and students. It is an investment premised on the idea that a higher education will improve life for the borrower but will also strengthen our society by giving more Americans the knowledge and skills to get good jobs and to give back to their communities.

In 2008, we significantly increased the amount of Stafford loans that undergraduates could borrow. The American Recovery and Reinvestment Act of 2009 provided another $17 billion to the Pell program, and the recent reconciliation law added another $36 billion over the next 10 years to the Pell Grant program.

Both the authorizing and appropriations committees which I chair have made hard choices and decisions to secure increases for the Pell Grant program, and I am proud of the $17.5 billion that we appropriated for the program last year. Those Pell dollars are an investment by Congress in our Nation's students and, as I said, in our country's future. For that investment to pay off, we must ensure that students are being well-educated and that schools are using Federal dollars, taxpayer dollars, responsibly.

There are growing questions about whether all students and taxpayers by extension are receiving value for their educational dollar. Today, I released a report titled "Emerging Risk" which takes a close look at what we know about how for-profit schools are operating today. I want to take a few minutes to highlight some of the key findings from that report.

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Over the past 20 years, the for-profit higher education industry has grown and evolved, bringing innovation to post-secondary education and expanding the number of students it enrolls. This year, nearly 2 million students were enrolled in for-profit institutions to pursue everything from technical certificates to graduate degrees. That is a 225-percent increase over the last 10 years, and I might also add that now the online educational aspect of those institutions has had an explosive growth over the last several years.

There is a chart that I will show and put up on the screens for everyone to see to indicate what I mean by the growth in the student population of for-profit schools. If you look from 1998 to 2008, that is the 225 percent increase that I am speaking about.

Nearly every student who attends a for-profit school borrows money to pay tuition. That is the second chart to show the amount of debt that these kids are incurring. While only 38 percent of the 2008 community college students took out loans, 98 percent of for-profit students graduated with debt. As you will see from the chart, for-profit students were also eight times more likely to graduate with a loan larger than $20,000. So not only are the kids in private for-profit schools borrowing more money, they are borrowing more money at higher levels, above $20,000 for example, in their debts.

Not surprisingly, for-profit college students are more likely to default on their loans than their nonprofit peers, and that you will see in the next chart where you can see the default rates are much higher. According to one recent analysis by the U.S. Department of Education, for-profit colleges accounted for about 10 percent of enrolled students but 44 percent of defaults.

The growth of for-profit colleges has been dependent on Federal subsidies, including Pell Grants, Federal student loans, military and veterans benefits, and while the for-profit share of enrollment has grown significantly, the sector share of Federal student aid dollars has grown even larger.

The next chart again illustrates this trend. As you will see, in higher education, about 9.2 percent of the students go to the for-profit schools, but in the second chart over, you will see they received almost 23 percent of all Federal Pell Grants and student loans in 2008. That amounts to more than $20 billion—$20 billion—of taxpayers' money. So 9.2 percent of the students go to the for-profit schools, but they receive 23 percent of all Federal Pell Grants.

Now, for all our investment in this sector, we know surprisingly little about whether students are completing degrees, transferring to other schools, or just dropping out. What information is available suggests that very large numbers of students are leaving for-profit schools each year. Exactly why we do not know. What enrollments we do have show huge student turnover, and that is the next chart.

It is a rather confusing chart, but here is what it says. For the four publicly traded schools that disclose detailed enrollment numbers, more students left over the course of 1 year than were at the school at the beginning of the semester. Experts describe this as school churn. I think about it this way. The churn rate in these for-profit colleges that are up here on the chart is the equivalent of my alma mater, Iowa State University, turning over its entire student body every year rather than every 3 or 4 years.

The chart is a little confusing and, quite frankly, it is somewhat perplexing because if you look at school No. 4, which is the third one down, you see that they started the school year with 96,211 students. They ended up with 116,800 students. They had about a 20,000 student growth in 1 year, but the two middle bars show that they added 118,500 students and lost 98,300 students.

What does all this mean? I do not know what it means. I do not really know how to interpret all this. That is one of the reasons we are having these hearings because we need to find out what does that mean. It is very, very perplexing.

I think it is highly unlikely that all of these for-profit students are graduating with degrees. I think the better bet is that many of them are dropping out. They are being replaced by new students with new loans and new Pell Grants to boost the school's revenues.

Given the number of students enrolled in for-profit colleges, the billions of dollars in Federal aid that these institutions receive, and the lack—the lack—of clear evidence of positive student outcomes, is why I think Congress must devote more attention to this sector and its impact on our post-secondary education system.

Today marks the first in a series of hearings to look at the for-profit education sector, to examine its growth, and to answer these questions of what is happening to students and what is happening to taxpayers' money. We have a responsibility to ensure that the taxpayers' dollars are being spent wisely and that for-profit colleges are serving students, not just the shareholders.

Now, while our data is incomplete, there are very disturbing statistics and information coming forward on these for-profit colleges. I have invited several individuals with expertise in this field to help us begin our oversight of this sector, and that is what I look upon these hearings as—as an oversight. My hope is that they will help the committee understand what has happened in this sector over the last few years.

The committee's report that I released makes clear that there is much we do not know. We do not know how many students graduate, how many get jobs, how schools that are not publicly traded spend their title IV dollars, how many for-profit students default over the long-term. We know some information about the short term, but we do not know much about the long-term.

More broadly, we do not know exactly what risks we are taking. We do not know what risks we are taking by investing an increasing share of our Federal financial aid dollars in this sector. I repeat that, we do not know exactly what risks we are taking by investing an increasing share of our Federal financial aid dollars in this sector.

Let me conclude by talking about the students who attend these schools. They are, after all, what matters most. For some students, the for-profit higher education system has worked well. The flexible schedules, convenient locations, online offerings allow working adults to finish their degrees while also meeting family and job responsibilities. Many for-profit schools offer students an excellent education that prepares them for good-paying jobs that will allow them to pay off their student loans. In short, for many students, attending a for-profit college is a great decision, and when those students succeed, they not only pay off their own loans, they also make good on the Federal investment in their future.

Unfortunately, many students have had a very different experience at for-profit schools. They have left without a certificate or degree but saddled with very large debts. Many students were misled about the value of the education they would receive. In just the past week, my office has received hundreds of stories from students who believed they were exploited by a for-profit institution. You can also find them in the reporting of Bloomberg News which has brought to light some of the most compelling stories, and I ask consent to insert at this point in the record three of those Bloomberg articles that just came out.

[The information referred to follows:]

REPORT.—EMERGING RISK?: AN OVERVIEW OF GROWTH, SPENDING, STUDENT DEBT AND UNANSWERED QUESTIONS IN FOR-PROFIT HIGHER EDUCATION*

(By Senator Tom Harkin)

INTRODUCTION

Postsecondary education is a gateway to the middle class for millions of Americans. It equips people with the knowledge and skills they need to perform professional work and compete in the global economy. To increase access to post-secondary education, the Federal Government has provided grants and loans to students for more than half a century, steadily increasing its investment nearly every year. In fiscal year 2010, Federal funding for financial aid to post-secondary students is expected to total $145 billion.[1]

The Federal investment in higher education is a solid investment in our future. Post-Secondary education results in benefits to the individual, including greater wealth and better health, and also to the Nation in the form of a more engaged citizenry and a more skilled workforce.

However, the United States is playing catch-up. Once first in the world in post-secondary attainment, the United States now ranks 10th in the percentage of people with a college degree.[2] President Obama has set the goal of making the United States, once again, first in the world in the proportion of college graduates by 2020. To this end, over the last 3 years Congress has taken steps to make college more accessible and affordable by substantially increasing student borrowing limits, recently committing $36 billion in mandatory Pell grant funding over the next 10 years included in the Health Care and Education Reconciliation Act of 2010, through $17 billion in discretionary funding through the American Recovery and Reinvestment Act of 2009 and annual discretionary funding, which in fiscal year 2010 was $17.56 billion.

For-profit schools are an important part of the mix of post-secondary institutions. They increase access to higher education by providing needed capacity as well as innovative options that can make it easier for students to complete their post-secondary education while managing work and family obligations. Enrollment in for-profit schools has grown dramatically over the past decade and, each year has seen a larger share of Federal student aid dollars flowing to these schools. Congress and the U.S. Department of Education have a duty to ensure that for-profit schools spend these Federal dollars efficiently and effectively.

Evidence suggests that for-profit schools charge higher tuition than comparable public schools, spend a large share of revenues on expenses unrelated to teaching, experience high dropout rates, and, in some cases, employ abusive recruiting and

* Scope And Methodology.—This report is based largely on publicly available information from the U.S. Department of Education and the 10-k filings of the 14 publicly traded companies that operate for-profit schools. It is not meant to suggest that any one company or school is the focus of this report or that similar results would not be found among for-profit schools that are not publicly traded. In order to avoid any suggestion that a particular school is a focus, whenever possible schools have not been identified by name, and the largest schools have been averaged together to provide a more accurate cross-section of the industry. The Chairman will provide further information underlying the charts and statistics in this report upon request.

[1] U.S. Department of Education. Budget Service. *Fiscal Year 2011 Budget Summary. http://www2.ed.gov/about/overview/budget/budget11/summary/edlite-section3d.html#tables*.

[2] Organization for Economic Co-Operation and Development, *Education at a Glance 2009: OECD Indicators,* September 2009. http://www.oecd.org/edu/eag2009.

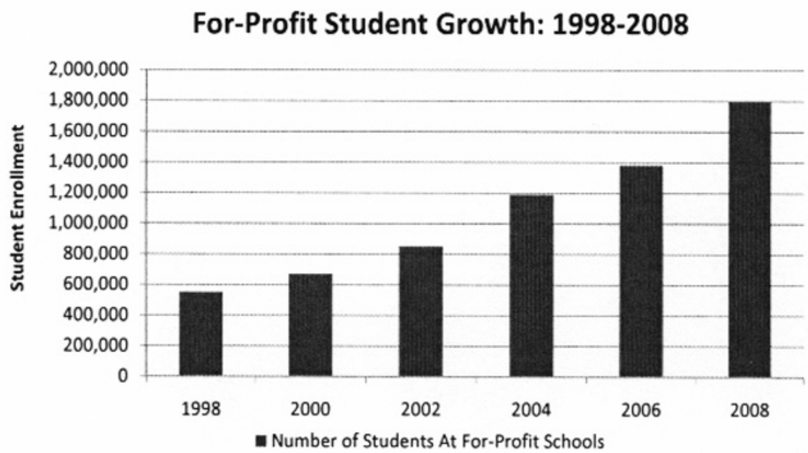
debt-management practices. What distinguishes for-profit schools from public and non-profit private institutions is that they have an obligation to maximize profits for their shareholders. Indeed, securities law sanctifies the notion that each corporation must act in the interest of its shareholders. However, this imperative could conflict with the objective of Federal student aid programs, which is to increase access to a quality higher education. This evidence, and the potential conflicts underlying it, points to the need for rigorous government oversight and prudent regulation to safeguard the investments of taxpayers and students.

This report draws on publicly available information to shed light on the scope of the Federal investment in for-profit schools and how these schools are using those taxpayer dollars. It also seeks to identify gaps in available information about enrollment, student performance, and loan debt and repayment—gaps that impede effective oversight.

GROWTH AND CHANGE IN ENROLLMENT

Over the last 10 years, there has been steady growth in student enrollment across all types of post-secondary education institutions. Between 1998 and 2008, enrollment at institutions of higher education increased 31 percent, from 14.9 million students to 19.6 million students. For-profit schools have expanded much faster, increasing enrollment 225 percent over the same period.[3]

Much of this growth has been concentrated in schools run by publicly traded companies. Currently, the 14 publicly traded companies in this field have combined enrollment of 1.4 million students, up from 8 companies that enrolled 199,584 students in 1998.[4] The largest for-profit school reports current enrollment of 458,600, more than the undergraduate enrollment of the entire Big Ten conference.[5]



Source: Majority staff analysis of U.S. Department of Education data

The trend toward educating students predominantly online is transforming for-profit schools. This change was facilitated by the 2005 Congressional repeal of the "50 percent rule" which previously required that schools furnish no more than half their courses online and have no more than half their students enrolled in distance-learning courses.[6] Of the 14 publicly traded schools, at least 7 currently have more

[3] Majority staff analysis of U.S. Department of Education data.

[4] Majority staff calculation of fiscal year 2010 quarterly filings with the U.S. Securities and Exchange Commission; Majority staff calculation of fiscal year 1998 quarterly and annual filings with the U.S. Securities and Exchange Commission.

[5] School #1 fiscal year 2010 quarterly filings with the U.S. Securities and Exchange Commission; Majority staff compilation of Fall 2009 undergraduate enrollment from Big Ten school Web sites.

[6] The Deficit Reduction Act of 2005 (P.L. 109–171). Enacted, February 8, 2006.

than 50 percent of their students in exclusively online curriculum.[7] Since that repeal, some for-profit companies have purchased small regionally accredited bricks-and-mortar schools and transformed them into huge entities with primarily virtual curricula, while also avoiding the time and cost of earning regional accreditation. For example, in 2005 one company purchased a small, regionally-accredited, religious school with an enrollment of 332 students on campus. Five years later, with the same accreditation, that same company has more than 65,000 students, 99 percent of whom attend class solely online.[8]

GROWTH IN FEDERAL STUDENT AID TO THE FOR-PROFIT SECTOR

The share of Federal aid flowing to for-profit schools is growing rapidly, and is actually outpacing growth in enrollment, meaning not just that there are more students enrolling in the schools but that the schools are receiving more Federal money per student.

The Federal Government offers loans to all students regardless of their income. For students with financial need, it helps pay for higher education using two key tools authorized by title IV of the Higher Education Act: Pell grants in an amount up to $5,350 per year for fiscal year 2010, and Stafford loans of up to $12,500 per year, which students repay after leaving school. This financial aid is intended for the benefit of the student. But, as a practical matter, aside from education-related expenses, student aid disbursements go directly to the student's school.

According to U.S. Department of Education data, $4.3 billion in Pell grants and $19.6 billion in Federal loans flowed to for-profit schools in 2008–2009, approximately double the share in 1999–2000.[9]

Pell grants in particular warrant careful management. Over the last several years Congress has made hard choices to devote greater Federal resources to the Pell program over other domestic priorities. Between 1999 and 2009, Congressional allocations for Pell enabled the program to grow significantly from $7.2 billion in 1999 to $18.3 billion in 2009. During that same period, the Pell Grant maximum award increased by 51 percent—increasing from $3,125 to $4,731 while the number of Pell recipients increased from 3.8 million to 6.2 million. While all sectors received higher levels of Pell funding as a result of these increases, the for-profit schools enjoyed a disproportionate share of the increase. In 2009, for profit colleges receive almost one quarter of all Pell Grants—up from just 13 percent in 1999.[10]

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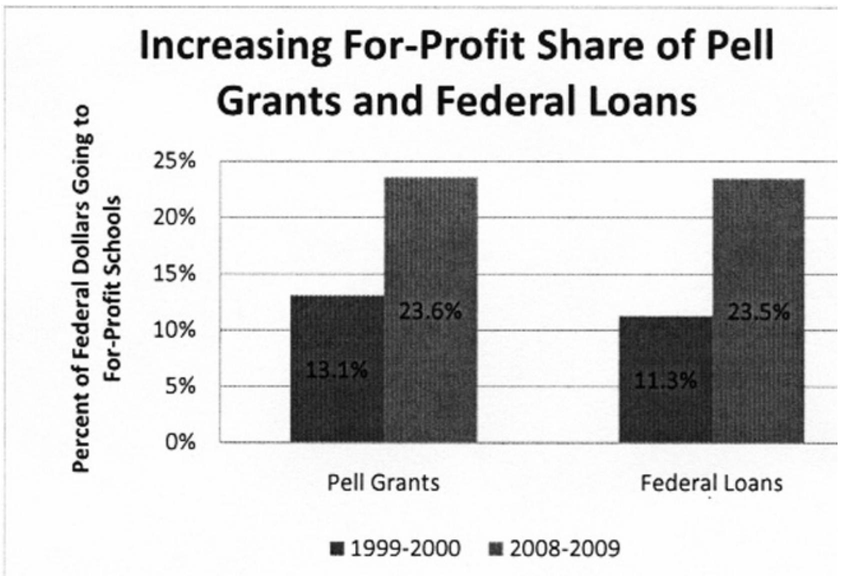
[7] Four of the fourteen schools have more than 98 percent of students online, while three schools have more than 50 percent of students in online courses. See fiscal year 2009 Form 10k filings with the U.S. Securities and Exchange Commission for schools ranked 3, 7, 8, 9, 10, 11 and 12 by enrollment.

[8] School 8 fiscal year 2009 annual filing with the U.S. Securities and Exchange Commission; School 8 fiscal year 2010 quarterly filing with the U.S. Securities and Exchange Commission.

[9] Staff calculation of data provided by U.S. Department of Education.

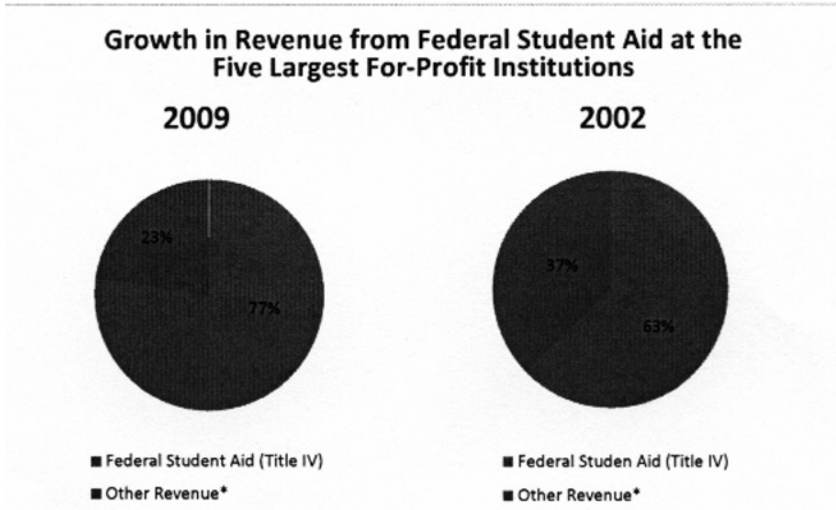
[10] U.S. Department of Education. *Federal Pell Grant Program 2008–2009 End of Year Report. http://www2.ed.gov/finaid/prof/resources/data/pell-2008-09/pell-eoy-2008-09.html*.



Source: Majority staff analysis of U.S. Department of Education data

Federal Pell grants and Stafford loans, together with aid from smaller title IV programs, make up the lion's share of for-profit schools' revenues, and the share continues to grow. According to company financial reports, in 2002, title IV government dollars accounted for on average 62.9 percent of revenues at the five largest for-profit schools. By 2009, the same companies reported that title IV dollars made up an average of 77.4 percent of their revenue.[11]

[11] In 2009, the top 5 publicly traded schools by enrollment had revenues that consisted of the following percentages of title IV dollars, excluding the Stafford loan increases: School 1: 86 percent; School 2: 70 percent; School 4: 80 percent; School 5: 81 percent; School 6: 70 percent. If the Stafford loan increases were included the shares could be as high as 83 percent.



** Including Department of Defense aid, state loans and grant aid, and any Stafford loan increases not included in each school's financial reporting.*

Source: Company financial data; for top six publicly traded schools by enrollment, excluding Kaplan Higher Education, which did not disclose data in 2002.

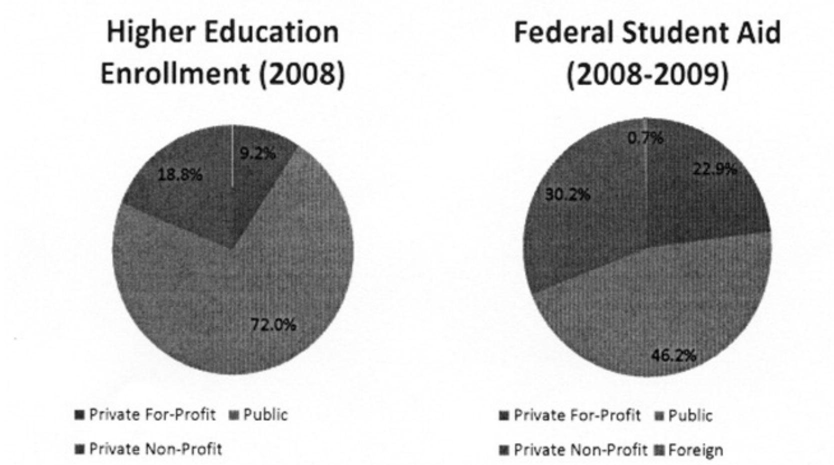
However, the actual share of Federal dollars received by the schools is even higher. For purposes of revenue calculation, Federal law permits the schools to temporarily exclude the recent $2,000 annual increase in undergraduate Stafford loans for money disbursed after June 2008 and before July 2011.[12] One for-profit school reported that title IV dollars make up 86 percent of its revenues this year, but acknowledged that the excluded loan increases would add another one-half to 3 percentage points.[13] A second school told investors that, with the recent increase in Stafford loans, title IV dollars account for 88.9 percent of its revenues though the reported figure is 81.3 percent.[14] Further, other forms of government aid—including Department of Defense, Department of Veterans Affairs and State programs—add to the share of public funds that for-profit schools receive.

[12] The Ensuring Continued Access to Student Loans Act of 2008 increased the amount of Stafford loans to undergraduates by $2,000, but allowed for-profit schools to exclude the increase from calculations of "the 90/10 rule" through mid-2011. The 90/10 rule provides that in order to remain eligible for title IV aid, for-profit schools must have revenue of less than 90 percent from title IV.

[13] School 1 Q4 Earnings Conference Call, 10/27/09.

[14] School 5 fiscal year 2009 annual filing with the U.S. Securities and Exchange Commission.

Comparison of Enrollment and Share of Federal Student Aid



Source: Majority staff analysis of U.S. Department of Education data

While for-profit schools enroll close to 10 percent of all higher education students, they receive approximately 23 percent of title IV funds.[15] They can collect this outsized share of title IV dollars because they actively recruit primarily low-income students.

GROWING PROFITS

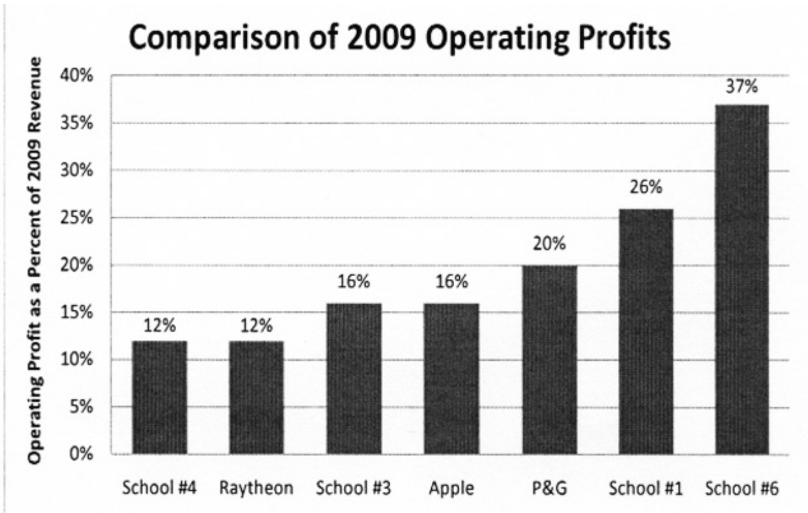
As these schools have increased their percentage of revenue from Federal student aid, for-profit education companies have become increasingly profitable. The average operating profit in fiscal year 2005 among publicly traded for-profit higher education companies was $127 million. The same number in fiscal year 2009 was $229 million, an increase of 81 percent.[16]

For-profit schools have significant operating profit margins among companies listed on U.S. stock exchanges. For fiscal year 2009, one company reported an operating profit of $489 million on revenues of $1.3 billion, a 37 percent margin. By comparison, this margin was more than triple that of Raytheon, and double that of Apple.[17]

[15] Majority staff analysis of U.S. Department of Education data.

[16] Company fiscal year 2005 annual filings with the U.S. Securities and Exchange Commission; Company fiscal year 2009 annual filings with the U.S. Securities and Exchange Commission.

[17] School 6 fiscal year 2009 annual filing with the U.S. Securities and Exchange Commission; Raytheon fiscal year 2009 annual filing with the U.S. Securities and Exchange Commission; Apple fiscal year 2009 annual filing with the U.S. Securities and Exchange Commission.



Source: Company financial data; schools labeled by 2009 enrollment numbers; operating profits are equal to revenues minus costs before taxes and depreciation.

To satisfy shareholders, publicly traded schools must generate higher revenues while keeping down costs, including teaching costs. They do this by raising tuition and/or increasing the number of enrolled students, which in turn will increase the amount of Federal student aid dollars flowing to the schools. With for-profit schools receiving more title IV dollars every year, one area warranting inquiry is how they spend this extra Federal money, whether the increased revenue is used to bolster profits.

SPENDING BY THE FOR-PROFIT SECTOR

Because title IV aid is technically provided to students, the Federal Government places no restrictions on how revenue from title IV student aid may be used by schools. There is no requirement that a school devote any portion of title IV dollars to education.

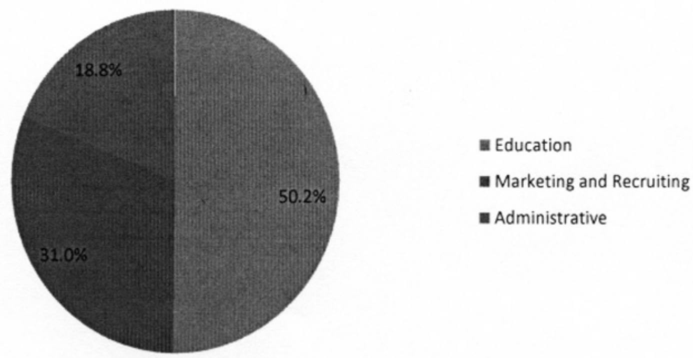
To recruit new students, some schools spend heavily on television advertisements, billboards, phone solicitation, and web marketing. An analysis of the eight publicly traded schools that break out expense categories shows that, on average, they spend 50.2 percent of costs on expenses classified as education, 31 percent on recruiting and marketing, and 15.7 percent on undefined administrative expenses.[18]

Among publicly traded for-profit schools, spending on education ranges from 32 percent to 63 percent of costs.[19] At exclusively on-line schools, the percentage spent on education is even lower.

[18] School 1, School 4, School 5, School 8, School 9, School 10, School 11, School 12 fiscal year 2009 annual filings with the U.S. Securities and Exchange Commission.

[19] School 2, School 5 and School 8 fiscal year 2009 annual filings with the U.S. Securities and Exchange Commission.

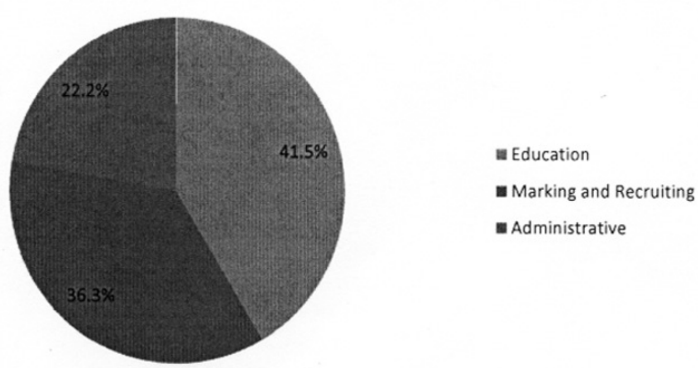
Spending by For-Profit Schools



Source: Company financial data for eight publicly traded for-profit schools that disclose spending.

Moreover, the amount that some for-profit schools spend on educating students is shrinking. One school reduced spending on education from 48 percent of costs in 2004 to 40 percent in 2009.[20] A second school reduced spending on education from 37 percent of costs in 2006 to 32 percent in 2009.[21] At least one school spent more on marketing and recruiting than on education, and another spent just 1 percent more on education than marketing and recruiting.[22] At the same time numerous accounts detail marketing and recruiting practices that are sometimes overzealous or misleading.[23]

Spending by Primarily Online Schools



Source: Company financial data for four publicly traded for-profit schools that disclose spending and educate more than 98% of their students online.

For-profit schools' expenditures on marketing and recruitment relative to the spending on education raise questions about whether sufficient resources are being

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[20] School 11 fiscal year 2004 and fiscal year 2009 annual filings with the Securities and Exchange Commission.
[21] School 8 fiscal year 2009 annual filing with the Securities and Exchange Commission.
[22] School 8 and School 11 fiscal year 2009 annual filings with the Securities and Exchange Commission.
[23] See: National Association for College Admission Counseling, "Higher Education Act Fraud Alert," May 11, 2010.

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devoted to ensuring that students receive a quality education that results in increased job opportunities or higher income.

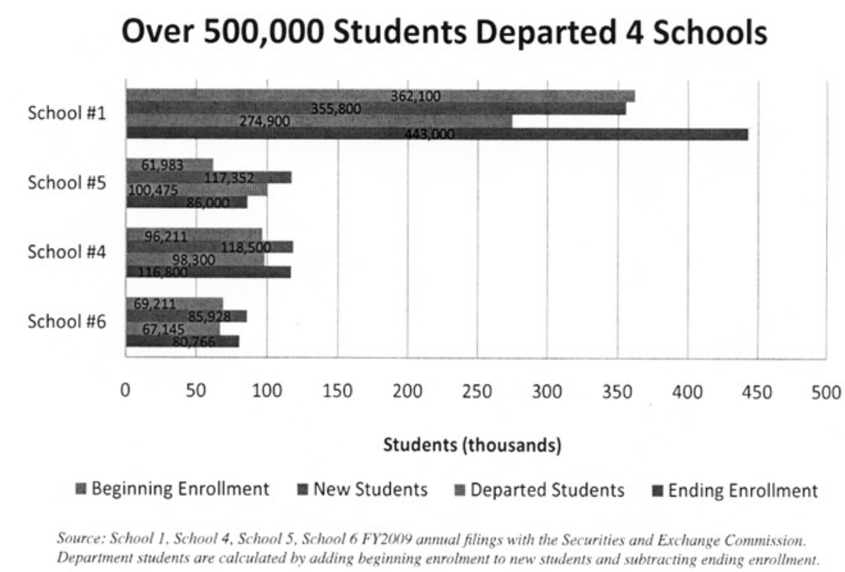
STUDENT OUTCOMES

Given the growing Federal investment in for-profit higher education, and considering their growing profitability, for-profit schools should be able to demonstrate significant positive outcomes for students. However, while publicly available information offers some transparency as to the revenue and expenditures of for-profit schools, it is more difficult to ascertain how students attending and graduating from these schools are faring.

For-profit schools that receive Federal financial aid are required to report graduation rates to the U.S. Department of Education. By regulation, schools that advertise job placement rates as a means of attracting students are required to make available to prospective students the most recent job placement and graduation rates. However, there is wide variation in the quality of this information. All data is self-reported, with no auditing mechanism in place to validate accuracy outside of the opaque accreditation process.

While for-profit schools report graduation rates (sometimes called “completion rates” to encompass certificate programs) to the U.S. Department of Education, this data is self-reported and only captures first-time, full-time enrolled students. Considering the large number of for-profit college students who attend part-time, or who have previous college experience, a very significant share of enrolled students fall outside this reporting requirement.

With regard to job placement data, there is no agreed-upon definition of how placement in a relevant field is calculated. For example, a restaurant dishwasher or even a janitor might be considered a “placement” by a culinary school. Additionally, while for-profit schools must report placement to accrediting agencies, the agencies are not required to disclose these standards or make placement data available to the public or the U.S. Department of Education, and do not use consistent standards.



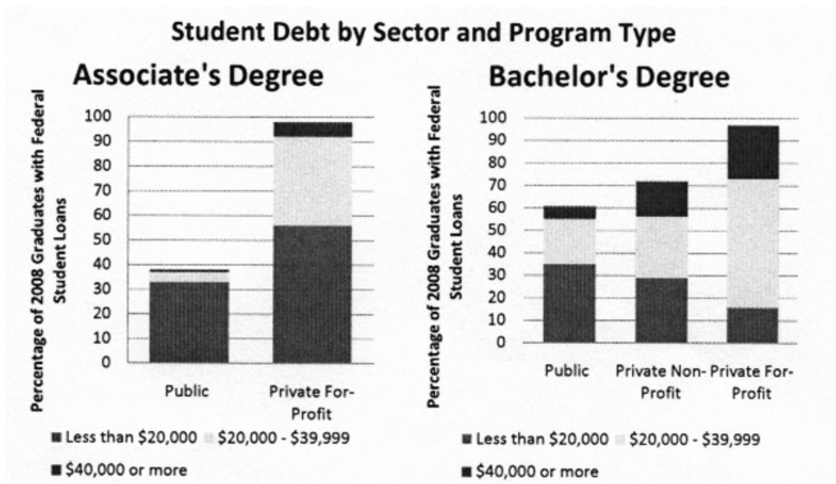
What scant information is available from company documents reveals a disturbing trend: large numbers of students are departing for-profit schools each year. For the four schools that disclose detailed enrollment numbers, an estimate of the number of students graduating or dropping out each year can be calculated by adding the number of new students to the number of continuing students and subtracting year-end enrollment. However, there is no way to tell what portion of these students graduated, transferred or dropped out.

Using this methodology, it appears that 540,820 out of a total enrollment of 589,505 left the four schools in 2009. While an unknown number of these departing students completed degrees or certificates, it seems likely that a significant portion also dropped out of the schools.[24]

Three of the four schools enrolled *more* new students over the course of the year than the total number of students at the beginning of the year. One school started the reporting period with 62,000 students, enrolled 117,000 new students, but ended with just 86,000 students enrolled.[25] Understanding what portion of these students is succeeding or failing to complete their degrees is critical to assessing the value of the Federal investment.

INCREASES IN DEBT AND DEFAULT

One way to evaluate whether students at these schools are receiving an adequate education is to see if they are able to repay the money they borrow to attend school. As college costs continue to rise, more students are borrowing to pay for school, and they are taking out larger loans. This is true across all sectors of higher education, but students at for-profit institutions are more likely to borrow and borrow larger loan amounts than their peers at other types of institutions.[26] On average, for-profit schools are more expensive to attend than community colleges or public 4-year schools, and they enroll many low-income students who rely almost entirely on loans and Pell Grants to pay tuition. Average annual tuition at a for-profit school was about $14,000 in 2009, while tuition at community college averaged about $2,500 and averaged $7,000 for in-state students at 4-year public colleges.[27]



Source: College Board, "Who Borrows Most? Bachelor's Degree Recipients with High Levels of Student Debt." By Sandy Baum & Patricia Steele, http://advocacy.collegeboard.org/sites/default/files/Trends-Who-Borrows-Most-Brief.pdf, and College Board, How Much Are College Students Borrowing?" By Patricia Steele and Sandy Baum. http://professionals.collegeboard.com/profdownload/cb-policy-brief-college-stu-borrowing-aug-2009.pdf

According to U.S. Department of Education data, 96 percent of for-profit students who graduated in 2008 took out student loans. Twenty-four percent of 2008 grad-

[24] All four schools offer Associates and Bachelors degree programs. Three also offer shorter duration certificate programs.

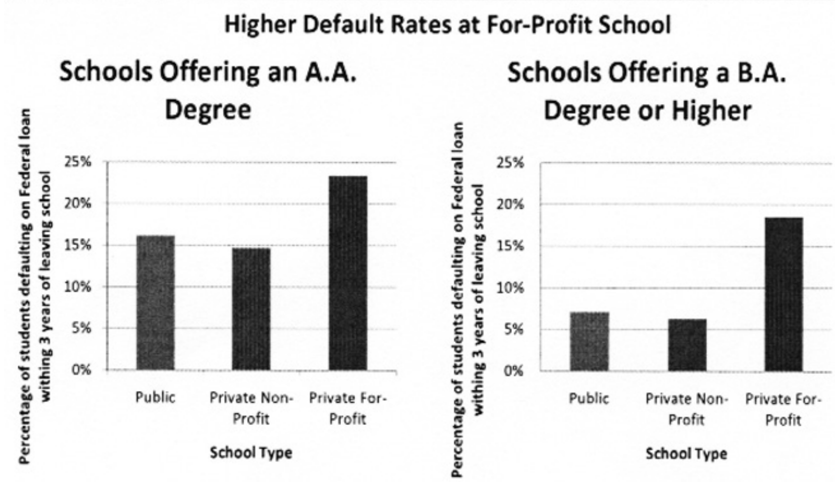
[25] School 5 fiscal year 2009 annual filings with the Securities and Exchange Commission.

[26] College Board, *How Much Are College Students Borrowing?*" By Patricia Steele and Sandy Baum. *http://professionals.collegeboard.com/profdownload/cb-policy-brief-college-stu-borrowing-aug-2009.pdf*; Project on Student Debt, "*Quick Facts about Student Debt*,"January 2010.

[27] College Board, Trends in College Pricing 2009.

uates took out Federal loans in excess of $40,000.[28] These rates are higher than at private non-profit or public schools.

One of the consequences of increased student borrowing is an increase in the number of defaults. The available information on default rates paints a bleak picture. While macroeconomic conditions can affect student loan default rates, persistent high default rates raise the question of whether students are receiving educational value sufficient to allow them to afford the debt they incur. Students who cannot pay their loans face punitive fees and higher interest rates. Moreover, in most cases, bankruptcy law prohibits a student borrower from discharging a student loan; the loan follows a borrower for the rest of his or her life.



Source: Education Sector, Cohort Default Rates, http://www.quickanded.com/2009/12/cohort-default-rates-bad-news-all-around-worse-at-for-profits.html

In December 2009, the U.S. Department of Education released a report on "Three-Year Cohort Default Rates" that examined the percentage of students who defaulted on their Federal student loans within 3 years of leaving school. The chart below depicts the percentage of students who default on their Federal student loans within 3 years of leaving school. It divides students up by sector and the highest degree offered at their institution. The U.S. Department of Education data clearly shows higher default rates for students who attend for-profit schools compared with those attending public or non-profit schools.

Most of the data and analysis on student loan debt and defaults measure the borrowing and repayment levels of students enrolled at least 5 years ago. For example, the most recent loan debt numbers for graduates come from the 2007–2008 National Post-Secondary Student Aid Survey. Bachelor's degree recipients measured in that study enrolled in 2004. Similarly, cohort default rates measure students who entered repayment more than 3 years ago, but enrolled at least 2 years before that (in the case of A.A. recipients).

The consequence of this data lag is that key indicators of debt, default and government risk do little to pick up rapid changes in student loan utilization by students or schools. In 2003–2004 the U.S. Department of Education made $45 billion in Stafford Loans. Just 6 years later they made $63 billion in loans, a 40 percent increase.[29] How schools are packaging those loans, and how students are borrowing

[28] Source: College Board, "*Who Borrows Most? Bachelor's Degree Recipients with High Levels of Student Debt.*" By Sandy Baum & Patricia Steele, *http://advocacy.collegeboard.org/sites/default/files/Trends-Who-Borrows-Most-Brief.pdf*; College Board, *How Much Are College Students Borrowing?*" By Patricia Steele and Sandy Baum. *http://professionals.collegeboard.com/profdownload/cb-policy-brief-college-stu-borrowing-aug-2009.pdf.*

[29] Department of Education. "Loan Volumes." *http://www2.ed.gov/about/overview/budget/studentloantables/09ffeldlnet-ay.pdf.*

will have a significant effect on the risk of the Federal Government's investment in student loans.

The U.S. Department of Education's Inspector General raised questions about the accuracy of cohort default rates to measure the full scope of student debt repayment. In particular, the Inspector General was concerned that the short window (2 years at the time, now 3 years) and the treatment of loan forbearances and deferments obscured the amount of Federal dollars at risk. In a 2003 report, the Inspector General recommended the U.S. Department of Education publish lifetime loan cohort default rates to "better identify trends in cohorts' defaults after the 2-year cohort period has ended." [30] Since the date of that report, both student borrowing and student debt have soared but the public information available on student loan performance has not substantially improved.

UNKNOWN INFORMATION

This report has identified numerous gaps in available data on for-profit colleges. Current publicly available information is limited to data reported to the U.S. Department of Education and, for the 14 publicly traded schools, quarterly and annual financial filings made to the Securities and Exchange Commission. As noted, what data is collected by the U.S. Department of Education has several serious limitations.

First, the U.S. Department of Education only tracks completion rates for first-time, full-time enrolled students, a metric that is not well-suited to the for-profit model where many students enter school with previous college credit or attend part time. As a result, these outcomes measures fail to capture many for-profit students and make it difficult to understand how many students are completing programs, transferring or dropping out.

Second, job placement information is reported inconsistently and not subject to uniform standards. This data is self-reported and there is no audit or verification procedure outside the confidential periodic accreditation review to ensure accuracy or public access to that information.

Third, many schools do not consistently publish tuition information, making it difficult for policymakers or consumers to compare schools and track tuition increases.

Fourth, default rates that help to elucidate how students leaving for-profit schools are faring in the workplace are only tracked for 3 years, and do not fully capture students who default outside that period. And because default data looks at a student population leaving school several years back, it may not adequately depict the current economic situation of recent graduates and dropouts, nor a significant shift in student borrowing.

Finally, for privately held schools, no information is available about how they spend title IV dollars. Even for publicly traded schools, annual filings only provide a general understanding of how title IV dollars are divided between education, administration and marketing. As a result it is very difficult to make a comprehensive assessment, particularly of privately held for-profit schools, based on publicly available information.

This list begins to outline some of the significant gaps in data on for-profit colleges. Congress should seek to fill those gaps to allow for an informed discussion and debate over the significant Federal investment in for-profit institutions.

CONCLUSION

The Federal Government and taxpayers are making a large and rapidly growing investment in financial aid to for-profit schools, with few tools in place to gauge how well that money is being spent. Available data show that very few students enroll in for-profit schools without taking on debt, while a staggering number of students are leaving the schools, presumably many without completing a degree or certificate. To boost enrollment, some for-profit schools recruit large numbers of new students each year. In some cases, schools enroll more students over the course of the year than were enrolled at the beginning of the year. To ensure these enrollment increases, it is necessary for the schools to devote very large shares of title IV dollars and other Federal financial aid to marketing activities, not education.

These schools are increasingly relying on Federal financial aid dollars for revenue. When all title IV, Department of Defense and Veteran's Administration funds are included, many of these schools are receiving nearly all of their funds from Federal sources. While increasing their reliance on Federal dollars as a source of revenue,

[30] Department of Education Inspector General. Audit to Determine if Cohort Default Rates Provide Sufficient Information on Defaults in the title IV Loan Programs. December 2003, page 2.

for-profit schools are at best spending only slightly more than half of revenues actually educating students, and in several cases are shrinking the amount spent on instruction. Yet these same schools are reporting profit margins of 20 percent and higher to investors.

Students at for-profit schools are also taking on higher amounts of debt than their peers at public and non-profit schools. Nearly half of student loan borrowers who entered repayment in 2007 and defaulted by 2009 attended for-profit schools (44 percent), even though less than 10 percent of students attend these schools.[31]

The publicly available data, in tandem with mounting reports of questionable practices and poor student outcome, yields a mixed portrait of the for-profit higher education sector that calls into question the tax payers return on their multi-billion-dollar investment, and leaves many unanswered questions with regard to whether a sufficient number of students receive an education that provides them with the knowledge and skills they need to obtain jobs to repay their student debt.

[DECEMBER 15, 2009]

(By Daniel Golden)

MARINE CAN'T RECALL HIS LESSONS AT FOR-PROFIT COLLEGE (UPDATE 2)

DEC. 15 (BLOOMBERG)—Marine Corps Corporal James Long knows he's enrolled at Ashford University, one of at least a dozen for-profit colleges making money off active-duty military with subsidies from American taxpayers. He just can't remember what course he's taking.

The 22-year-old from Dalton, GA, suffered a brain injury that impaired his ability to concentrate when artillery shells hit his Humvee in Iraq in 2006, he said. Long signed up for the online college, a unit of Bridgepoint Education Inc., after its recruiter gave a sales pitch this year at a barracks for wounded Marines at Camp Lejeune in North Carolina. Under base rules, the barracks are off-limits to college recruiters, said Robert Songer, director of lifelong learning at Lejeune.

For-profit online colleges are taking over higher education of the U.S. military, lured by a Defense Department pledge of free schooling up to $4,500 a year for active members of the armed services, costing taxpayers more than $3 billion since 2000. The schools account for 29 percent of college enrollments and 40 percent of the half-billion-dollar annual tab in Federal tuition assistance for active-duty students, displacing public and private nonprofit colleges, according to Defense Department and military data.

The shift is leading to educational shortcuts and over-zealous marketing, said Greg von Lehmen, chief academic officer of the University of Maryland University College in Adelphi, the adult-education branch of the State system and one of the earliest and biggest providers of military education.

FASTER, EASIER

"In these schools, the rule is faster and easier," von Lehmen said. "They're characterized by increasingly compressed course lengths and low academic expectations. One has to ask: Is the Department of Defense getting what it is seeking?"

Some online schools offer free laptops or fast degrees. At Apollo Group Inc.'s University of Phoenix, the biggest for-profit college, active-duty military personnel can earn an associate's degree, which typically takes 2 years of study, in 5 weeks.

Apollo fell $1.13, or 1.8 percent, to $60.93 at 4 p.m. in New York in Nasdaq composite trading. The company's shares are down 21 percent this year.

Taxpayers picked up $474 million for college tuition for 400,000 active-duty personnel in the year ended Sept. 30, 2008, more than triple the spending a decade earlier, Defense Department statistics show. Any college degree provides a boost toward military promotion, said James Pappas, vice president for outreach at the University of Oklahoma. Credentials from online, for-profit schools are less helpful in getting civilian jobs, especially in a tight labor market, Barmak Nassirian, associate executive director of the American Association of Collegiate Registrars and Admissions Officers in Washington, said in an e-mail.

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[31] TICAS analysis of U.S. Department of Education 3-year Cohort Default Rate data for fiscal year 2007.

DISAPPOINTED GRADS

"I'm afraid that the ease with which these outfits hand out diplomas is matched only by the disappointment of their graduates when they find out how little their degrees are actually worth," Nassirian said.

Mike Shields, a retired Marine Corps colonel and human resources director for U.S. field operations at Schindler Elevator Corp., rejects about 50 military candidates each year for the company's management development program because their graduate degrees come from online for-profits, he said in an interview. Schindler Elevator is the North American operating entity of Schindler Holding AG in Hergiswil, Switzerland, the world's second-largest elevator maker.

BROADER EXPERIENCE

"We don't even consider them," Shields said. "For the caliber of individuals and credentials we're looking for, we need what we feel is a more broadened and in-depth educational experience." He does hire service members with online degrees for jobs on non-leadership tracks, he said.

Several online for-profit schools have become a concern on military bases because of practices that exploit soldiers and the Federal subsidies they are promised, said Songer at Camp Lejeune.

"Some of these schools prey on Marines," Songer said. "Day and night, they call you, they e-mail you. These servicemen get caught in that. Nobody in their families ever went to college. They don't know about college."

Most online for-profits, such as American Public Education Inc.'s American Military University, "do a very good job taking care of students," Songer said.

Executives at for-profit colleges said they pay more attention to customer service than traditional schools do, and their online format suits military students who move frequently.

FLEXIBILITY, OPTIONS

"It's about flexibility and options," said Rick Cooper, vice president of military and corporate programs at Columbia Southern University in Orange Beach, AL. "You can enroll any day of the week, any week of the year."

Columbia Southern grants transfer credits to soldiers for courses in which they earned grades as low as D. Grantham University in Kansas City, MO, has handed out free laptop computers and American Military in Charles Town, WV, gives free textbooks as recruitment inducements.

Online schools such as American Military University have relocated their headquarters to obtain certification from regional boards with less demanding standards, according to interviews with for-profit college officials and accrediting agencies. Or they're approved by less established organizations, leaving students hard-pressed to transfer credits to other colleges or find jobs at major corporations.

SALARY COMPARISONS

Holders of master's degrees in business administration from for-profits Phoenix and American Intercontinental University earn less than graduates with the same degrees from Oklahoma or Maryland's University College, according to Payscale.com, a provider of employee compensation data.

Recent MBA graduates from University College and Oklahoma have median annual incomes of $78,600 and $68,400, respectively, compared with $60,200 from Phoenix and $54,600 from American Intercontinental, the data show. Recent bachelor's graduates from University College earn a higher median salary ($55,200) than their counterparts at Phoenix ($50,500) and American Intercontinental ($43,100). Oklahoma, at $41,100, trails Maryland and the two for-profit schools.

Travis Daun, a 33-year-old former Navy lieutenant commander who trained as a nuclear engineer on a submarine, left the service in August after receiving an online MBA from American Intercontinental, a unit of Career Education Corp., based in Hoffman Estates, Illinois.

RIGOR, CHALLENGE

"I was disappointed in the rigor and challenge of the courses," Daun said in an interview, adding that each course lasted 5 weeks, with at most 2 hours a week of class time. "I don't think I had a 4.0 effort, yet I had a 4.0 grade-point average."

Daun is unemployed. His college roommate, who also became a nuclear engineer in the Navy and earned an MBA from the University of Maryland's University College, did find work, Daun said. "His MBA from Maryland definitely helped him a lot more than my AIU degree is helping me," he said.

Daun is working with Lucas Group, an executive search firm that specializes in placing former military personnel.

"Does his master's from American Intercontinental open a lot of doors for him? No, it doesn't," said Lee Cohen, an Irvine, CA-based managing partner at Lucas.

American Intercontinental provides a high-quality education for adult students, said Jeff Leshay, a spokesman for Career Education. Leshay said the company doesn't track where graduates find jobs.

"NO PROBLEMS"

While deployed in Iraq, Christopher Brotherton earned a bachelor's degree in homeland security from American Military in 2007. When the staff sergeant retired from the Army in June, his degree, which included courses in geography and history, helped him find a job teaching social studies in a middle school in Ardmore, OK.

"The State, when they saw my transcript from AMU, they had no problems with any of it," Brotherton, 42, said. "It was a respected school to them."

Brian Kilgore's quest for a college degree was set back in 2007. Then a petty officer first class in the Navy, Kilgore needed two more courses to earn an associate's degree from Grantham when the online for-profit college eliminated the software engineering program he was taking, he said in an interview. Kilgore switched to computer science and soon left school, still four classes short of that degree. "I was upset," said Kilgore, 38, who recently retired from the military and works in aviation maintenance. "Gosh, I was almost there." The program was eliminated due to lack of interest, Grantham said.

CAREER DISADVANTAGE?

When service members do earn degrees from online for-profits, human resources executives at Fortune 500 firms are often reluctant to hire them, said Cohen, citing three where he has placed candidates. "There are some firms that are heavily credential-oriented," he said. "McKinsey & Co. is one of them. They might balk. Amazon might balk. Shell Oil is another one." McKinsey, Amazon.com and Shell declined to comment.

Bradford Rand, chief executive of Techexpo Top Secret in New York, which runs job fairs for defense contractors recruiting recent veterans, said a degree from an online for-profit is a disadvantage. "You have two people of the same caliber, one has a degree from a real college, one has a degree from a computer, I'm going to favor the one from the live college," Rand said. "It's more verifiable, more credible."

The Defense Department plans to subject online programs to review by the American Council on Education in Washington, which already monitors face-to-face classes on military bases, defense officials said. The new online standards, which the department began to develop in 2004, have taken longer than expected and are a year away from being implemented, Tommy Thomas, deputy undersecretary of defense for military community and family policy, said in an e-mail.

MAXIMUM REIMBURSEMENT

Of the dozen colleges with the biggest active-duty enrollment, five are for-profits that conduct most or all of their courses online. Three—American Military University, Apollo's Phoenix, and closely held Grantham—charge $250 a credit, or $750 a course, which allows them to receive the maximum reimbursed by U.S. taxpayers without service members having to pay any out-of-pocket tuition. Publicly funded community colleges offer classes on military bases for as little as $50 a credit, according to their Web sites.

American Public Education fell 1 cent, or less than 1 percent, to $34.40 at 4 p.m.

GOVERNMENT INQUIRIES

The expansion of online for-profit colleges into the military comes as the companies face U.S. Government inquiries into their tactics in recruiting and educating civilians. The Obama administration is tightening scrutiny of for-profits, from the content of their pitches to prospective students to their increasing reliance on Federal financial aid, Robert Shireman, deputy undersecretary of the U.S. Education Department, said in an interview.

In addition, the Securities and Exchange Commission's Enforcement Division has begun an informal probe into how Apollo Group books revenue. Apollo intends to cooperate fully with the inquiry, the company said.

By expanding its military business, Phoenix has been able to enroll more civilian students who are supported by grants and loans from the Education Department, without violating Federal law that dictates how much revenue the school can receive from the government. Phoenix derived 86 percent of its $3.77 billion in revenue in fiscal 2009 from the Education Department, according to its annual 10–K filing, up from 48 percent in 2001 and approaching the limit of 90 percent set by a 1992 law known as the 90/10 rule.

MILITARY MARKET

Tuition payments to for-profit schools by the military don't count toward the 90 percent ceiling. One way that Phoenix plans to stay below the legal threshold is building its military business, Gregory Cappelli, co-chief executive of Apollo, which is based in Phoenix, said in a June 29 conference call with investors.

When the law was enacted, for-profits hadn't yet moved into the military market, so the legislation's sponsors weren't focused on Defense Department tuition assistance, Sarah Flanagan, who helped draft the law as the Senate's specialist in Federal student aid, said in an interview. The law was intended to ensure that for-profit colleges offered an education good enough that some students were willing to pay for it, said Flanagan, now vice president of the National Association of Independent Colleges and Universities in Washington.

"Counting Defense Department funding for servicemen's education as part of the money that's supposed to come out of consumers' pockets violates the purpose of the original legislation," Flanagan said.

PHOENIX RECRUITMENT

Apollo spokeswoman Sara Jones said in an e-mail that Phoenix began serving military students long before the advent of "the misguided 90/10 rule."

Phoenix ranks among the top five colleges serving military students, including about 5,000 in the Army and 2,700 in the Navy, according to the two services. While Phoenix offers campus-based graduate programs in education and management at Air Force bases in the Pacific, most of its active-duty students take classes online, school officials said. Phoenix has 452 recruiters in its military division, up from 91 in 2003, said Scott McLaurin, its executive enrollment counselor at Camp Lejeune, the largest Marine Corps base on the East Coast.

SOARING ENROLLMENTS

Military enrollment at exclusively online for-profits is soaring. American Military has 36,772 active-duty students, up from 632 in 2000, it said. It has the most Air Force and Marine Corps students of any college. Closely held Columbia Southern has 9,582 service members, up from 649 in 2002, it said. Closely held TUI in Cypress, CA, has more than doubled active-duty enrollment to 7,665 in the first quarter of 2009, from 3,661 in 2004, it said.

While six public and private non-profit colleges hold face-to-face classes on Camp Lejeune, none has the highest active-duty enrollment there. That distinction belongs to American Military, with 1,623 students, up from 11 in 1999. Phoenix's enrollment there has risen to 296 from 15 over the same period.

Active-duty enrollment at public and nonprofit schools has slumped. The University of Oklahoma, once the leading provider of graduate degrees to service members, has lost half of its military enrollment in a decade, said Pappas, the vice president for outreach.

"A decade from now, you may not find traditional national public and private universities in military education," Pappas said. "That's one of the real dangers."

CURRICULUM CONTROL

Faculty members at online for-profit colleges, usually part-timers with practical experience in their fields, have less control over curriculum than in conventional academia, said Benjamin Bolger, who has taught at the University of Phoenix and the College of William & Mary in Williamsburg, VA. Professors assign reading and writing and discussion topics prescribed by the school. Students don't have to log on at a specific time. At their convenience, they complete weekly coursework and respond to classmates on discussion boards.

While many colleges adopt what are known as "military-friendly" practices, the online for-profits go further than most. They accelerate course and degrees for service members, trimming requirements and granting abundant transfer credits.

At Phoenix, members of the armed forces can earn an associate's degree by taking one 5-week online class, "Written Communication." They can make up for the other 19 courses required for an associate's degree with credits for classes taken elsewhere, military experience including basic training, and passing grades on tests that gauge knowledge of a subject area.

FAST TRACK

Civilians seeking the same degree must take at least 6 Phoenix courses and can use credits from outside sources for no more than 14. Traditionally, 2-year students must take 10 courses, or half of the required load, from the school that awards their degrees, so it can vouch for their training, Nassirian said.

Only a handful of active-duty students choose Phoenix's one-course option, called the Associate of Arts Degree Through Credit Recognition, said Mike Bibbee, the university's director of military programs.

At Columbia Southern, students can finish courses in 3 weeks and gain credit for as many as three classes taken at other colleges in which they received grades as low as D, according to its catalog. All exams are open-book.

"QUITE UNORTHODOX"

"It would be quite unorthodox for traditional institutions to grant transfer credit to coursework completed below a grade of C," Nassirian said. Columbia Southern's academic quality is comparable to a State or nonprofit university, Cooper said. The University of Alabama, in Tuscaloosa, also accepts D's for transfer courses, according to its Web site.

On Oct. 16, several Marines waited their turn on benches outside American Military's office in the education center at Camp Lejeune. Inside, AMU education coordinator Brian Miller made his pitch to Jyher Lazarre and Hyunwoo Kim. Lazarre, 19, of Orlando, Florida, and Kim, 20, of Leonia, NJ, joined the Marines in 2008 and are roommates at Lejeune, they said.

Of 20 courses needed for a 2-year degree, they could satisfy eight through basic training and other military experience, Miller said. They could test out of seven more, leaving them to take five classes.

"I can cut the time of this degree literally in half," Miller told them. "It's going to make you competitive toward promotion as well."

"If we can cut it down, that's really good," Kim said.

ACCREDITATION CONFLICTS

Conflicts with accrediting associations that certify academic quality have dogged several online for-profits. American Military, founded in Virginia in 1991 by a former Marine Corps officer, applied in 1998 for accreditation by the Commission on Colleges of the Decatur, GA-based Southern Association of Colleges and Schools. The southern association is one of six regional bodies that approve public and nonprofit institutions and represent the gold standard in accreditation.

In June 1999, the commission denied American Military a candidacy visit, an early step in the accreditation process, said Ann Chard, commission vice president. The university didn't meet the requirements of having full-time professors and a library, instead relying on part-time faculty and a lending library network, said James Herhusky, a trustee.

American Military then shifted its headquarters to West Virginia to seek regional accreditation by the Higher Learning Commission of the North Central Association, according to the minutes of a July 2002 meeting of the Virginia Council of Higher Education, based in Richmond. In 2006, North Central approved American Military, which offers degrees in fields including homeland security, counter-terrorism studies and weapons-of-mass-destruction preparedness.

"MORE ACCOMMODATING"

"At the time, North Central was the only region we knew that was accrediting totally online institutions," Herhusky said. "We found their criteria to be less prescriptive and more accommodating."

American Military now has 160 full-time professors and an online library, Herhusky said. The school has almost quadrupled active-duty enrollment since 2005, when it hired James Sweizer, former head of education for the Air Force, to run its military programs.

"I came to AMU with the philosophy of relationship marketing," Sweizer said in an interview. "You cater to the needs of key influencers."

Sweizer said he's seen "dramatic improvement" in how American Military manages courses and faculty.

PROBATIONARY PERIOD

American Intercontinental, which ranked 20th in tuition assistance from the Marine Corps in fiscal 2009, also didn't meet the standards of the Southern Association of Colleges and Schools. It was placed on probation from 2005 to 2007 for academic and administrative shortcomings, including an inadequate number of full-time professors, according to accreditation records. The school addressed the association's concerns, and the improvements it made during those 2 years have strengthened the university, Career Education spokesman Leshay said in an e-mail.

American Intercontinental moved its headquarters this year from Atlanta to Chicago and was accredited by North Central. American Intercontinental relocated because its online campus is based there, Career Education spokesman Leshay said.

Two other for-profits in the military market, Grantham and Columbia Southern, have a status known as national accreditation. Newer than the regional groups, the seven national bodies mostly approve for-profit colleges, including vocational and distance-education programs. Only 14 percent of colleges accept credits transferred from nationally accredited institutions, according to a 2006 study by the University Continuing Education Association in Washington.

EXPANDING MARKET

Three policy changes in the past decade opened the military market to for-profit colleges. The Defense Department, which had paid tuition assistance mainly to regionally accredited schools, began in 1999 to reimburse nationally accredited colleges as well. It increased funding in 2002 from 75 percent to 100 percent of tuition up to the $250-per-credit ceiling. In 2006 and 2007, the Army cut 233 counselors who used to guide soldiers through college choices, replacing them with interactive Web sites that offer information, said Army spokesman Wayne V. Hall.

These moves coincided with the rise of Internet courses. For-profits were ahead of most traditional colleges in online education, which helps service members, deployed worldwide, keep up their studies. In fiscal 2008, the first year that the Defense Department collected such data, 64 percent of active-duty students took distance-education classes.

WAR ZONES

Soldiers even take online classes in war zones. While in Afghanistan, Army sergeant Patrick Peake earned a bachelor's degree in criminal justice from American Military, enrolling in as many as four online courses at a time.

Cavalry scouts "set up a wireless connection at the mud-brick building we were at," Peake, 29, said in an interview. After studying counter-terrorism at AMU, Peake said, he told friends in Army intelligence about terrorist groups in the region. "This dumb grunt helped them out a little," he said.

Unlike most traditional schools, for-profits vie to offer inducements to students. American Military gives textbooks for free to undergraduates, who may resell them to the school's vendor after use for $30 to $50 per book, Miller said. Columbia Southern is considering a similar buyback program, according to Cooper.

Grantham, the seventh-biggest recipient of undergraduate tuition money from the Army in fiscal 2008, gave new laptop computers made by Dell Inc., from March to July to active-duty students who had completed at least four courses with grades of C or better. The free laptops were part of a pilot research project on student retention, said Tim Arrington, Grantham director of military programs.

LAPTOP LARGESSE

Michael Lambert, executive director of the Distance Education Training Council, which accredits Grantham, advised the school to stop the laptop largesse, he said.

"The concern is, schools will outdo each other and we'll have an arms race," he said. "Free laptops, free Kindles, free iPods, all coming out of taxpayers' pockets."

Servicemembers Opportunity Colleges, a Defense Department Washington-based contractor that develops policies for 1,800 colleges involved in military education, is also considering guidelines to limit laptop giveaways and other inducements. "I don't think it's out of hand, but the potential is there," said Kathy Snead, the group's director.

FORMER MARINES

Career Blazers Learning Center, a New York-based vocational school, gave away laptops loaded with instructional software to Marines about to be deployed to combat zones, owner Paul Viboch said. It also hired former Marines as recruiters and paid referral fees to students for signing up other service members. Entire units enrolled, and Career Blazers received $4.5 million in tuition assistance from the Marine Corps in 2006, the most of any post-secondary provider.

Career Blazers charged $4,500—the maximum that the military reimburses in a year—for self-paced lessons on how to perform basic computer applications or balance checkbooks. Much of the material was available for less expense at workshops or community college classes on bases, education specialists said.

"The military overpaid for laptops," said Johanna Rose, an education technician at Camp Lejeune.

Relocated to Martinsburg, WV, and renamed Martinsburg Institute, Career Blazers stopped giving away laptops 3 months ago. Its tuition assistance from the Marine Corps slipped to $616,000 in fiscal 2009, as education officials on some Marine bases discouraged service members from enrolling, Viboch said. "I was too successful, too quickly," he said.

"UNDERHANDED" TECHNIQUES

Unauthorized marketing pitches by for-profit recruiters have become widespread on military bases.

"Some of these schools are a little underhanded," said Pat Jeffress, branch manager of lifelong learning at Camp Pendleton, a Marine Corps base in California, said. "They try to backdoor me. They come onto the base when they don't have permission and they set up shop."

One recruiter for Ashford University recently ignored the anti-solicitation rule at Camp Lejeune, said Songer, the base's lifelong learning director. Bridgepoint, based in San Diego, has climbed 57 percent since the company went public on April 14. Bridgepoint fell 21 cents, or 1.2 percent, to $17.37 at 4 p.m. today.

Songer said he told the recruiter, whose husband is in the military, that she could only meet students at the base's education center. Instead, she pitched the online for-profit in the recreation room of a barracks for wounded Marines. About 30 Marines showed up, said Brad Drake, a corporal who attends Ashford.

"ATTRACTIVE" RECRUITER

"It helped that she was really attractive," said Drake, 23, who suffered a traumatic brain injury in Afghanistan when a rocket hit his truck. "That got everyone's attention."

The recruiter spoke at the barracks with the approval of the unit's commanding officer, Bridgepoint spokeswoman Shari Rodriguez said in an e-mail. "We keep our students' needs at the forefront of all we do."

Unit commanders are often unfamiliar with educational rules, Songer said. He told the recruiter, "If you cross that line again, you'll never be allowed on this base," he said.

ASHFORD'S ENROLLMENT

Ashford ranked sixth in Marine Corps enrollment in the year ended Sept. 30, 2009, with 1,018 students. At Camp Lejeune, Ashford had 119 active-duty students, up from 25 in the previous year, and 6 in fiscal 2007. About 8 to 10 wounded Marines signed up for Ashford after the recruiter's presentation, among them Corporal Long, the brain-injured soldier, who also walks with a cane.

Long is pursuing a bachelor's degree in organizational management through Ashford. In his first class, students could retake the final test until they passed, he said.

"I took it 10 times," he said. "I kept getting the same answers wrong."

Long, who aspires to be an occupational or physical therapist, said he wonders if he can graduate. He is married and says he needs to provide for his family.

"I got my doubts," he said. "My family's more important than my doubts. That keeps me going."

[January 19, 2010]

APOLLO SUFFERS NEW YORK SNUB AS SEC PROBES PHOENIX (UPDATE 3)

(By Daniel Golden)

JAN. 19 (BLOOMBERG)—Apollo Group Inc., whose for-profit University of Phoenix is among the largest colleges in the United States with campuses in 29 of the 30 most populous States, faces one long-standing obstacle to staking its claim as the future of higher education: New York.

During Apollo's 12-year quest to enter the third-biggest State, founder John Sperling raised money for Eliot Spitzer's 2006 gubernatorial campaign, and the company hired Mel Miller, former speaker of the New York Assembly, as a lobbyist.

New York has blocked Phoenix's bid for a Manhattan campus, questioning its academic quality, its dropout rate, how it compensates recruiters, and even its right to call itself a university, according to interviews and documents obtained under a State Freedom of Information Law request. One State review said introductory algebra was less demanding than a high school course. Phoenix has 455,600 undergraduate and graduate students, slightly less than the State University of New York's 464,981 enrollment.

"The last thing we need to do is open a college that's not successful," Joseph Frey, New York's deputy commissioner for higher education, said in a December 11 interview in his Albany office. "I'm not bringing anything in front of the Board of Regents until I'm confident the university is playing by the rules of the U.S. Education Department and complies with our requirements."

SEC INVESTIGATION

Investors are beginning to share New York's skepticism. While the benchmark Standard & Poor's 500 Index of stocks has advanced 8.2 percent, Apollo shares have fallen 17 percent since Oct. 27, when the company said the Securities and Exchange Commission opened an informal probe into its accounting practices. Apollo said its accounting is appropriate, and it intends to cooperate with the inquiry.

Apollo's swoon partly reflects concern that Federal authorities may follow New York's lead and keep closer tabs on for-profit colleges, said Trace Urdan, an analyst at Signal Hill Capital Group in San Francisco.

"In the Obama administration, the pendulum has swung back closer to where New York State has been the whole time," Urdan said in a telephone interview.

The absence of a New York campus hurts Phoenix's efforts to boost enrollment and revenue. Phoenix described New York in a June 2004 planning document as having "the highest number of potential students" of any State.

GROWTH "DECELERATION"

"A 'deceleration of growth' in Phoenix's 2-year associate degree program, which accounts for 45 percent of enrollment, is worrying investors," said Ariel Sokol, an analyst at Wedbush Morgan Securities in New York. "The slowing growth reflects the school's shift to higher-quality bachelor's degree candidates," he said. "The U.S. Education Department also is prodding Phoenix to disclose more information about costs and course requirements to prospective students, which could deter some of them from enrolling," he said.

While 39 for-profit colleges operate in the State, including ITT Educational Services Inc. and DeVry Inc., New Yorkers have to attend Phoenix online or cross the Hudson River to the university's Jersey City, NJ, campus. Phoenix, which generated 95 percent of Apollo's $3.97 billion in revenue in the year ended August 31, enrolls students in face-to-face and online classes.

More than 15,000 New Yorkers are enrolled at Phoenix online "to take advantage of our innovative, accredited education to help their careers during these difficult economic times," Sara Jones, an Apollo spokeswoman, wrote in an e-mail.

NO VOTE

Phoenix's application has never reached a formal vote by the New York regents, who oversee education in the State, Frey said. Phoenix students don't qualify for the State tuition assistance program, which provided $813 million of aid in the 2008–2009 academic year, he said.

New York officials' questions are similar to those that the Obama administration is asking about the for-profit college industry generally. The U.S. Department of Education is considering restrictions on paying recruiters for enrollments and on giving misleading information to prospective students, and may require for-profit colleges to show how much their programs increase graduates' earnings, according to department documents.

The department is examining institutions that increasingly rely on Federal financial aid, Robert Shireman, the U.S. deputy undersecretary of education, said in a Sept. 1 interview. Phoenix derived 86 percent of its $3.77 billion in revenue in fiscal 2009 from Education Department grants and loans to students, up from 48 percent in 2001, according to its Oct. 27 10–K filing with the Securities and Exchange Commission.

LATE REFUNDS

Apollo was late in paying Federal financial aid refunds for dropouts, according to a government report the company disclosed in its 10–Q on Jan. 7. The findings by the Education Department will cost about $1.5 million, Phoenix-based Apollo said.

Apollo fell 11 cents, or less than 1 percent, to close at $60.26 in Nasdaq stock market composite trading at 4 p.m. today.

Most education companies fell today after the Education Department released draft regulations that might restrict Federal student loans for schools whose graduates can't repay their debt. The agency released draft "gainful employment" provisions in its aid program that would require companies to show their students can earn enough to pay back their loans.

Phoenix's failure to gain approval in New York is one of its few defeats since Apollo went public in 1994.

Founded in 1976 by John Sperling, a faculty-union organizer and former San Jose State University history professor, Phoenix pioneered a model that used part-time faculty with practical experience to teach 5-week courses to working adults. The university has expanded nationwide, aided by well-connected board members, campaign contributions and extensive lobbying.

EDUCATIONAL ACCESS

The quality of Phoenix's educational offerings and its policy of admitting any applicant who has completed high school or earned an equivalency degree have driven the university's growth, said Jones, the Apollo spokeswoman. Phoenix "provides access to those who otherwise might not have the opportunity to pursue higher education," she said.

In Pennsylvania, Phoenix managed to overturn a ban on for-profit colleges. In Texas, with the support of then-Governor George W. Bush and his education adviser, Margaret Spellings, later U.S. Secretary of Education, it outlasted the State higher education commissioner who tried to block its entry. For-profits are freer than most nonprofit colleges to form political action committees and donate to candidates for State office, said Miriam Galston, a law professor at George Washington University in Washington.

"In all my time there, New York was the only State we didn't win," Charles Seigel, a former Apollo senior vice president for government affairs and now vice president for public policy at Cornell Companies Inc. in a telephone interview.

SAGA BEGINS

The New York saga began in 1995, when Seigel got in touch with New York education officials. Phoenix applied for a license 2 years later, seeking to open a Manhattan campus for graduate and undergraduate students. Three years later, a State review team visited the university's campuses in Phoenix and Tucson, Arizona. The university "really wanted New York very badly," Miller, Apollo's New York lobbyist from 1999 to 2006, said in a telephone interview.

By 2001, Phoenix was growing impatient.

"I am beginning to believe all of this is intentional delay," Seigel wrote to Gerald Patton, then New York's deputy commissioner for higher education. "It is becoming my view that this process will never end."

In a January 2002 letter to a university official, Frey proposed a compromise—licensing Phoenix only for graduate programs, which had received better reviews than its undergraduate offerings. Against Miller's advice, Phoenix spurned the offer, Miller said.

"WORST ENEMY"

"The university was its own worst enemy," he said.

After a 2002 site visit to a Phoenix campus in Philadelphia, a State review team found fault with the college's newly designed general-education courses for undergraduates.

First-year algebra "is not a college-level mathematics course" and "does not demand as high a level of critical thinking as the high school curriculum" in New York, according to a 2003 draft report.

Courses in human nutrition and in environmental issues and ethics lacked basic science, and instructors were unqualified, according to the report.

"The reviewers continue to question that college-level content in the liberal arts and sciences, in particular in the math and science disciplines, can be covered in a 5-week session," the authors wrote.

Phoenix's general-education courses "are at the appropriate level and quality," Manny Rivera, an Apollo spokesman, wrote in an e-mail. The school continually evaluates and updates its curriculum and has won Arizona awards for course development, he said.

GRADUATE PROGRAM

While New York criticized Phoenix's undergraduate quality, the State's graduate-only proposal remained on the table. "We are ready to move forward" with five proposed graduate programs in business, Frey wrote in April 2004 to Susan Mitchell, a Phoenix vice president who is now Apollo's senior vice president for government affairs.

This time, Phoenix acquiesced. The school, which didn't offer enough doctoral programs in academic fields to describe itself as a university under State rules, would go by "Phoenix.edu" in New York, Mitchell wrote Frey in June 2004.

The New York market had "astounding" potential, Phoenix said that month in a planning document submitted to State officials.

"In the past year, the university has been contacted by 20,000 residents, many of them from the Manhattan area," according to the document. "These numbers represent the highest number of potential students approaching the institution in any State."

LOCAL COLLEGES

The State then canvassed area colleges for their views on Phoenix opening a graduate campus. Fordham University in the Bronx, Pace University in Manhattan, Polytechnic University in Brooklyn, and the Association of Proprietary Colleges in Albany all opposed Phoenix and requested a public hearing.

"The MBA program is just a foot in the door for the initiation of additional programs in direct competition," wrote David Chang, then Polytechnic's president and now chancellor of Polytechnic Institute of New York University.

In response, Mitchell wrote to Frey in November 2004 that Phoenix "fully understands the limitations on registration and approval in New York."

New York has barred Phoenix to protect local colleges, said Thomas Triscari Jr., an associate professor at Rensselaer Polytechnic Institute in Troy, NY, who served on the six-member State review team that visited Phoenix campuses in 2000.

VISION, FORESIGHT

Phoenix's approach to education "is well-structured, well thought-out," Triscari said in a telephone interview. "These guys have vision and foresight. Competition is in the fabric of our society. Why have we precluded that in academic circles?"

Another member of that team also said the State should approve Phoenix.

"They're as good as any of those other for-profits operating in New York," said David Breneman, a professor at the University of Virginia in Charlottesville and former dean of its school of education. "I don't see any reason you'd single them out for retribution."

New York was about to schedule a hearing on the local colleges' objections when the news broke in September 2004 that Apollo had agreed to pay $9.8 million to the Education Department to settle alleged violations of a 1992 law banning incentive compensation for recruiters. The company didn't admit wrongdoing.

State officials pulled back, complaining that Phoenix had failed to alert them to the Federal probe.

HEARING DELAYED

"We cannot proceed as planned to schedule a hearing," Barbara Meinert, coordinator for the State education department's Office of College and University Evaluation, wrote Mitchell in October 2004.

Laura Palmer Noone, then Phoenix's president, apologized in a September 2005 letter to a New York official "for any embarrassment or concern this delay in providing the information caused for the Board of Regents."

She defended the university's compensation policies.

"There is no correlation between the number of students recruited and the amount the enrollment counselors were paid," she wrote.

"We were set for the final hearing and then everything blew through the moon," Miller said. The hearing on Phoenix's application for a graduate campus was never scheduled, Frey said.

ANOTHER TACK

Stymied, Sperling took another tack. After meeting Spitzer, then State attorney general and the frontrunner in the governor's race, through mutual friends at a dinner, Sperling suggested a fundraiser for him, said Kristie Stiles, the candidate's national finance director.

"I knew Phoenix wasn't operating in New York," she said in a telephone interview.

At least 15 executives and board members of Phoenix and Apollo Group attended the 2006 fundraiser in Sperling's Arizona home, according to campaign finance filings. The event reaped at least $50,000, Stiles said.

Sperling and Phoenix were accustomed to politics. In his 2000 autobiography, "Rebel With a Cause," Sperling described his skills as "primarily educational and political."

Before obtaining a license in Pennsylvania, Phoenix had to persuade the Legislature to overturn a century-old State law prohibiting a university from operating as a for-profit, according to Sperling's autobiography. Phoenix officials met with each member of the State's House and Senate education committees, and brought some of them to visit its campuses, Seigel said. The repeal was adopted in 1997 as an amendment to an elementary-school budget bill, he said.

"BITTERLY OPPOSED"

"The private colleges were bitterly opposed to us, but by the time they found out" about the maneuver, "it was too late," Seigel said.

When Phoenix sought entry into Texas in the mid-1990s, Kenneth Ashworth, then the State's higher education commissioner, was skeptical of the school's reliance on part-time faculty, he said in a phone interview.

"I stood in the breach and tried to keep the University of Phoenix out of Texas," Ashworth said.

Phoenix hired Diane Allbaugh, wife of then-Governor Bush's chief of staff, Joseph Allbaugh, as a lobbyist, according to records of the Texas Ethics Commission, a State agency based in Austin. Bush's education adviser, Margaret La Montagne, later Margaret Spellings, prodded Ashworth to expedite the license, he said.

"UNSHIRTED HELL"

"She called and gave me unshirted hell," Ashworth said. "Why wasn't I letting Phoenix into Texas?' I said they couldn't meet our standards."

While Spellings doesn't recall specific discussions about Phoenix with Ashworth, she talked to him all the time on educational policy, Holly Kuzmich, Spellings's spokeswoman, said. Spellings and Bush supported "new and innovative developments in higher education," including Phoenix, Kuzmich said. Diane Allbaugh declined to comment.

Ashworth's retirement in 1997 cleared the university's path. Phoenix "was offering better-quality degree programs than those offered at some public institutions in Texas," Ashworth's successor, Don Brown, said in a telephone interview. Phoenix's first Texas campus, in Dallas, was approved in February 2001.

Apollo created a political action committee in 1994, and Sperling encouraged the company's top seven executives to contribute the maximum $5,000, he wrote in his autobiography. He soon persuaded the next two levels of executives to donate, and Apollo formed three more PACs.

POLITICAL CONTRIBUTIONS

"If we were to be in the 'game,' it required contributions to Members of Congress and the Senate, not to mention presidential candidates—this, on top of a growing number of State legislators and governors," Sperling wrote.

Phoenix studded its board with political insiders such as Richard Bond, former Republican National Committee chairman; John Burton, chairman of the California Democratic Party and former president of the California Senate; Alan Wheat, a former U.S. House member from Missouri; and William Goodling, former chairman of the House education committee. Board members were unavailable for interviews, Apollo's Rivera said.

Sperling and Nancy Pelosi, speaker of the U.S. House of Representatives, are longtime friends, as well as neighbors in San Francisco, where Sperling owns a home, Jorge Klor de Alva, Phoenix senior vice president for academic excellence, said in a Sept. 9 interview at the university's Arizona headquarters.

PELOSI'S ATTENDANCE

Pelosi attended a Democratic Congressional Campaign Committee fundraiser that Sperling hosted in Arizona last May, according to two people familiar with the event. In 2003, Pelosi went to a small gathering at Sperling's home and discussed with him how to position the Democratic Party to retake the House and make her speaker, according to a Pelosi aide and to a person acquainted with both Pelosi and Sperling.

Sperling co-wrote a 2004 book, "The Great Divide," advising Democrats on how to win the "red" States and citing Pelosi's views. Sperling hasn't asked for the speaker's help on any legislation affecting the university, the Pelosi aide said. Sperling declined to comment.

Phoenix experienced success with Congress. In 2008, for example, the university helped pass a provision expanding Federal financial aid to for-profit colleges beyond vocational programs to include liberal-arts students, House aides said. Phoenix plans to offer more liberal-arts courses for aspiring teachers who need degrees in academic fields, William Pepicello, the university's president, said in a Sept. 9 interview at its Arizona headquarters.

SPITZER FUNDRAISER

In New York, Sperling thought the Spitzer fundraiser "would take care of everything. He thought he had positive signals from Eliot," Miller said. "If I was Sperling, I would have been the same way. 'We've done this the honorable way, we get no results, let me try another route.'"

Miller said he warned the university that the fundraiser would be futile because the regents are appointed by the Legislature, not the governor, and because he thought Spitzer wouldn't go out of his way to reward contributors.

In July 2006, Spitzer returned $2,000 donations from Sperling and Hedy Govenar, the founder of Governmental Advocates Inc., a Sacramento, CA, lobbying firm that represents Apollo. Govenar has served on the boards of Phoenix and Apollo. The campaign refunded the money after learning about Apollo's 2004 incentive compensation settlement, Stiles said. Apollo said in December 2009 that it paid $78.5 million to settle a lawsuit over the same issue of recruiter compensation. The company did not admit wrongdoing.

"NICE HOUSE"

Spitzer remembers the fundraiser, not why it was held or why he gave back the money, he said in a telephone interview.

"I recall being in a nice house, chatting for about 15 minutes," he said. "I raised $40 million around the Nation. People supported what we were doing."

Spitzer was elected governor in 2006 and served until his March 2008 resignation.

The fundraiser was Sperling's personal undertaking, "separate and distinct from Apollo Group's political activism, which is expressed through the company's nonpartisan PAC," Apollo's Jones said.

Apollo has donated $10,150 to New York State legislators and to State Democratic Assembly and Senate campaign committees since 2001, according to campaign finance documents. The company gave $1,000 in 2006 to Ron Canestrari, then chairman of the Assembly's higher education committee and now majority leader; $400 in 2007 to Kenneth LaValle, now ranking Republican on the Senate's higher education committee; and $500 in 2007 to Kevin Parker, a member of that committee. The university currently doesn't have a lobbyist in New York and isn't engaging in political activity on behalf of its application, Rivera said.

DROPOUT RATE

State officials remain concerned that Phoenix's dropout rate is too high, said Saul Cohen, a regent and a former president of Queens College in New York. Only 8.9 percent of first-time, full-time college students who enrolled at Phoenix in 2001 completed their degrees in 6 years, according to the National Center for Education Statistics, in Washington.

Including transfer students, 26 percent of candidates for associate degrees finish in 3 years, and 36 percent of students pursuing bachelor's degrees graduate in 6 years, according to Phoenix's 2009 academic annual report.

"You bring in bodies that may not have much of a chance of completion," Cohen said in a telephone interview. "That certainly is part of the issue." Apollo is introducing a 3-week orientation course for unprepared students, the company said, Jan. 7.

WATERFRONT CAMPUS

Phoenix continues to seek approval in New York and is updating the information in its application at the State education department's request, Jones said.

At the same time, "we look forward to continuing to serve our New York students through our neighboring New Jersey campus," Jones said. At the campus on the Jersey City waterfront, which New Jersey approved in 2003, about a fourth of the students come from New York, according to a December 2004 letter from Mitchell to Frey.

Phoenix student Maurice Murphy, a 32-year-old Bronx resident, takes a subway under the Hudson six days a week to school. If all goes smoothly, his commute takes half an hour, Murphy said as he headed to class December 17 in Jersey City. He is majoring in human services management and wants to become a social worker.

"Now we've got a resource center with TVs and computers," Murphy said. "This is like I'm really going away to college."

[April 30, 2010]

HOMELESS HIGH SCHOOL DROPOUTS LURED BY FOR-PROFIT COLLEGES

(By Daniel Golden)*

Benson Rollins, 23, poses for a portrait near the Y Haven shelter in which he is currently living in Cleveland, earlier this week. Photographer: Ross Mantle/Getty Images for Bloomberg Business Week.

Benson Rollins wants a college degree. The unemployed high school dropout who attends Alcoholics Anonymous and has been homeless for 10 months is being courted by the University of Phoenix. Two of its recruiters got themselves invited to a Cleveland shelter last October and pitched the advantages of going to the country's largest for-profit college to 70 destitute men.

Their visit spurred the 23-year-old Rollins to fill out an online form expressing interest. Phoenix salespeople then barraged him with phone calls and e-mails, urging a tour of its Cleveland campus. "If higher education is important to you for professional growth, and to achieve your academic goals, why wait any longer? Classes start soon and space is limited," one Phoenix employee e-mailed him on April 15. "I'll be happy to walk you through the entire application process."

Rollins's experience is increasingly common. The boom in for-profit education, driven by a political consensus that all Americans need more than a high school diploma, has intensified efforts to recruit the homeless, Bloomberg Businessweek magazine reports in its May 3 issue. Such disadvantaged students are desirable because they qualify for Federal grants and loans, which are largely responsible for the prosperity of for-profit colleges. Federal aid to students at for-profit colleges jumped to $26.5 billion in 2009 from $4.6 billion in 2000. Publicly traded higher education companies derive three-fourths of their revenue from Federal funds, with Phoenix at 86 percent, up from just 48 percent in 2001 and approaching the 90 percent limit set by Federal law.

BI-WEEKLY STIPEND

The privately held Drake College of Business, which trains people to be medical and dental assistants, relied on taxpayers for 87 percent of its revenue in 2007. Almost 5 percent of the student body at its Newark, NJ, branch is homeless, says Jean Aoun, director of admissions and student services there. Late in 2008, it began offering a $350 bi-weekly stipend to students who show up for 80 percent of classes and maintain a "C" average.

"It's basically known in the community: If you're homeless, and you need some money, go to Drake," says Carmella Hutson, a case manager at the Goodwill Rescue Mission in Newark, where about 20 clients have enrolled at Drake in the past 2 years. "It would put money in my pocket, help me buy a car," adds Jerome Nickens, 45, who lived at the mission when he talked to a Drake representative but decided not to enroll.

FORMAL INVESTIGATION

After Bloomberg Businessweek called the Accrediting Council for Independent Colleges & Schools to inquire about the stipends, the council opened an investigation into the college's recruitment practices. The inquiry could lead to revoking Drake's accreditation, leaving it ineligible for Federal aid.

* To contact the reporter on these stories: Daniel Golden in Boston at dlgolden@bloomberg.net.

Chancellor University in Cleveland, which counts Jack Welch as an investor and features a weekly video for students by the former General Electric Co. chief executive, explicitly focused recruiting efforts on local shelters after it realized that Phoenix, owned by Apollo Group Inc., was doing so. Chancellor has stopped pursuing the homeless, and Phoenix says any recruiting by its employees in Cleveland shelters was unauthorized. Phoenix's business code prohibits recruiting at shelters, and any employee violating the ban could face termination, Apollo says.

Phoenix wants to ensure that "only students who have a reasonable chance to succeed enroll in our programs," Apollo spokesman Manny Rivera said in an e-mail.

WELFARE POPULATION

Other schools see nothing wrong with reaching out to the disadvantaged. "We don't exclusively target the homeless," says Ziad Fadel, chief executive of Drake, which also sends recruiters to welfare and employment agencies. "We are in a community that is low-income and happens to have a lot of people on welfare."

The every-other-Friday payment encourages Drake students to stay in school and graduate, he says. The stipend, which about three-fourths of Drake's 1,200 students receive, is not "a gimmick to just get students in the front door," Fadel says. He adds that a sample analysis of 30 graduates placed by Drake's career services office found "some very substantial improvements in income."

While many caseworkers for the homeless are gratified by the attention, some see only exploitation. The companies "are preying upon people who are already vulnerable and can't make it through a university," says Sara Cohen, a case manager at Shelter Now in Meriden, CT. "It's evil."

DÉJÀ-VU

The current state of for-profit education has an element of déjà-vu. Twenty years ago the sector had grown wild and unruly, as fly-by-night trade schools siphoned off students from welfare and unemployment lines, ostensibly to train them as truck drivers or hairdressers. Often these enterprises provided little or no schooling; their aim was the Federal student aid. Default rates on student loans skyrocketed to 22 percent before Congress enacted tough regulations in 1992. Among them were limits on default rates for individual colleges as well as a cap on the percentage of their revenue that they could receive from the government. The schools were also forbidden to pay recruiters based on how many students they enrolled.

The reforms injected discipline into the industry and brought down default rates. Then, a decade later, the Bush administration relaxed the ban on incentive compensation for recruiters, opening the door for the aggressive wooing of the homeless.

"Targeting vulnerable populations who are not likely to benefit is one example of overzealous recruiting that can be driven by paying based on enrollment numbers," says Robert Shireman, Deputy Under Secretary of the U.S. Education Department, which is pushing to tighten the rules.

UNLEASHING POTENTIAL

The Bush administration also sought to unleash online education's potential. Phoenix now boasts 458,600 students, with more than 200,000 in its 2-year online program. Enrollment in for-profit colleges grew to 1.8 million in 2008 from 673,000 in 2000. Revenue rose to an estimated $29.2 billion this year from $9 billion in 2000, says Jeffrey Silber, an analyst for BMO Capital Markets in New York. Operating margins averaged 21 percent in 2009; schools typically charge $10,000 to $20,000 a year, well above comparable programs at community colleges.

The industry is now fully mainstream. Goldman Sachs Group Inc. owns 38 percent of the for-profit Education Management Corp. in Pittsburgh, which has 136,000 students in programs ranging from fashion to culinary arts, and former President Bill Clinton took a position as honorary chancellor of Laureate International Universities, owned by Baltimore-based Laureate Education Inc. Investors are flocking to the industry, drawn by the stability of government funding and the profit potential of online classes. But some of the unsavory practices that spurred Congress to act are springing back to life, with a new wrinkle or two.

HOMELESS CIRCUIT

In Cleveland, Chancellor and Phoenix were both hitting the homeless shelters last year. Byron Thompson, who joined Phoenix in 2009 as a recruiter, soon made presentations at Y Haven, Salvation Army Harbor Light and Transitional Housing, all of which serve the city's homeless.

Thompson, 29, says the recruiting served a social purpose: "I feel the homeless are a real population that can't be ignored." Borrowing by the homeless to pay tuition "is no different from a middle-class student who has to take out a loan," he says. He also hoped to boost his pay. "The month I signed up two or three women from Transitional Housing was a good month," he admits. (Phoenix recruiters in Cleveland had a quota of five students a month, according to a former employee.)

LEGAL SETTLEMENT

Thompson, who left Phoenix in January, acknowledges that his bosses didn't endorse his efforts to recruit the homeless. Apollo Group agreed last December to pay $78.5 million to settle a Federal lawsuit in California alleging that compensation for Phoenix recruiters violated restrictions on incentive pay. The company, which admitted no wrongdoing, says it's changing its compensation model.

While Thompson says he was "welcomed with open arms" at the shelters, some staff members were wary. "The question in my mind about Phoenix was, "Why are they doing this?'" says Bruce Shagovac, a counselor at Y Haven. "There's got to be some payoff for them."

One homeless woman whom Thompson steered to Phoenix was Marisol Lugo. Lugo ran away from her Chicago home at age 12, became a heroin addict, and lived on the streets for 22 years, eating out of restaurant trash bins and sleeping in parks and abandoned cars. After detox, she moved in 2008 to Transitional Housing, obtained a high school equivalency degree, and got to know Thompson. "He gave me wonderful words of encouragement," says Lugo.

With Federal grants and loans covering the $10,000-plus annual tuition, she began pursuing a 2-year business degree online at Phoenix last August. She soon ran into academic difficulties, failing a course in critical thinking.

RETAINING INFORMATION

"Sometimes, having used so much drugs, I have trouble retaining information," says Lugo, who now has her own apartment and a maintenance job at the shelter. According to Phoenix, she left the school in November. She says she is still registered and there is a payment dispute.

Phoenix's forays into shelters were noted by a new Cleveland rival. In 2008, investors bought nonprofit Myers University, which was under court receivership, and renamed it Chancellor. A year later Welch acquired a stake in it; the university named its new master's degree program in business administration after him, and Welch helped develop the curriculum.

At a faculty function last August, Darius Navran, dean of Chancellor's School of Professional Studies, sought out Jeffrey Perkins Jr., an adjunct professor of public administration, and asked how Chancellor could boost its enrollment of about 400.

NONTRADITIONAL STUDENTS

"If we don't tap into that population, Phoenix will," Perkins says he told Navran, meaning the homeless. The dean agreed.

Chancellor's small classes and low student-to-faculty ratio are suited to nontraditional students such as the homeless, Perkins says. He e-mailed managers of Cleveland social service agencies in September, inviting them to a lunch at Chancellor to "discuss our new plans to recruit the economically disadvantaged and at-risk groups. Many of them are targeted for on-site recruitment at local transitional housing, halfway houses, and other human service facilities."

Sixteen human services managers showed up for the lunch. Two days later, in a memo to Navran, Perkins predicted that the program would produce "a minimum of at least 10 enrollees by spring term."

"HEAVY-HANDED"

In the ensuing weeks, Perkins and other Chancellor officials gave presentations at a dozen social service programs. Their pitch was "very heavy-handed," says Phillip Hines, housing coordinator for the Community Women's Shelter. "It was beating the drum, 'Go to Chancellor. This is what we offer. Financial aid, financial aid, financial aid.'"

Afterward, Hines says, Chancellor hounded him with phone calls and e-mails to "get these women rolling." Chancellor's initiative reaped only one or two students and was discontinued. It "had all the best intentions," CEO Bob Barker said in an e-mail, "but the time and effort generated very little interest."

In one view, the rise of for-profit colleges represents a laudable merger of public interest and the private sector. With public colleges beset by budget cuts, for-profit colleges offer an opportunity for people who are down and out to get ahead. Students with no assets or collateral can tap Federal grants and loans on the theory that degrees will lead to well-paying jobs that enable borrowers to repay.

TUITION HIKES

The trouble is the cost. Education companies charge high prices that require students to take on debt. Chancellor charges $9,750 a year—about four times the $2,400 tab at nearby Cuyahoga Community College. Poor students can pay Cuyahoga's tuition with Federal grants and don't have to take out loans. Student advisers from Cuyahoga make the rounds at Cleveland area shelters, helping the homeless choose colleges and fill out applications.

And for-profit tuition is rising fast. Drake hiked its tuition from $4,000 in 2007–2008 to $15,700 this year, which Fadel attributes to new equipment and additional staff. Borrowers who earned bachelor's degrees from for-profit colleges in 2007–2008 had a median debt of $32,653, well above the $22,375 and $17,700 for graduates of 4-year private nonprofit and public colleges, respectively.

Such burdens can be difficult for homeless people who are more likely to suffer from mental illness and substance abuse than the general population. Bad credit doesn't go away easily. In the Cleveland shelters, you can still find people with trade school debts from 20 years ago. Those who don't repay their student loans may forfeit their chances for public housing and are also ineligible for Federal financial aid to return to college.

DEFAULT CONSEQUENCES

"If the homeless have a bad student loan, they can't find a place to live, they can't go back to school, and in this economy there's not a lot of work," said Ardretta Jones, a case manager at Tacoma Rescue Mission in Tacoma, WA, "That leaves a person with no options."

Because they don't have to repay their educational loans until they leave school, some homeless students spend beyond their means. Kim Rose, a recovering crack cocaine addict and ex-offender in Raleigh, NC, began pursuing an online bachelor's degree in business last November at Capella Education Co.'s Capella University, based in Minneapolis. At the time she was staying in a drug-free program with Internet access.

BIG SPLURGE

Rose, 38, receives almost $4,000 each academic quarter in Federal grants and loans for tuition and living expenses. She splurged last Christmas, spending $700 of her financial aid on presents for her 7-year-old son, who has lived with his grandmother. "I got him everything he wanted," Rose said in a telephone interview. "Games, toys. He's a guitar freak, I got him a guitar. To make up for me not being there."

In February, Rose moved into a shelter where the only computer was broken. As a result, she has struggled to keep up, dropping an English composition course. Rose isn't typical of Capella students, most of whom are mid-career professionals seeking graduate degrees, says university spokeswoman Irene Silber: "We would not intentionally recruit someone who is in a life crisis, much less one as significant as homelessness."

Given the troubled pasts of some homeless students, even a college education hardly assures a well-paying job. Brenda Torchia, another recovering crack cocaine addict in Raleigh who has served several prison terms for drug offenses, was in a shelter and looking online for work when she saw an ad that asked if she wanted to further her education. She answered yes and was directed to the Web site of a for-profit school called ECPI College of Technology based in Virginia Beach, VA.

PLACEMENT TEST

Torchia applied, passed a placement test, and started ECPI's medical administration program on March 1. The 40-year-old mother of four is borrowing about half of the $23,000 tab from the Federal Government, with grants and scholarships paying the rest. ECPI officials are aware of her background and "guarantee me a job in the field," Torchia says. "My school is very, very supportive of me. I guess God opened up their hearts to receive me for whom I am."

Torchia's history would be a red flag for health-care employers because hospitals and clinics have drugs on site, says Susan Eget, communications director of the American Academy of Medical Administrators. While ECPI doesn't promise jobs, President Mark Dreyfus says, medical administration offers Torchia's best chance because not all employers check backgrounds and she could process records in a back office where drugs aren't accessible.

In the end, Benson Rollins didn't succumb to Phoenix's hard sell. He is taking a class for his high school equivalency degree and hopes to study law enforcement in college. For now, he would like a job so he can pay child support for his 1-year-old daughter, whom he rarely sees. The Phoenix recruiters, he says, failed to mention a critical point: He would have to take out a government loan at 5 percent to 7 percent interest to pay the $10,000-plus annual tuition. "I'm in a homeless shelter, and money is hard to come by," Rollins says. "It's not worth going to school to end up in debt."

The CHAIRMAN. This morning we will hear from one of these students, Yasmine Issa. We will also hear from a former prosecutor who has extensive experience in the ways that some schools mislead students about their job prospects after graduation.

In closing, I know firsthand how a student loan can transform the life of someone from a background of modest means. I was reading the article that was in Good Housekeeping. I will refer to this later as I introduce Yasmine Issa who was profiled in this article. Mr. Harris Miller of the Career College Association was quoted as saying that these kids who go to non-profit colleges and universities are "the socially elite." Well, I went to Iowa State University. My mother was an immigrant. My father had a sixth grade education and was a coal miner. We did not have any money. I went to Iowa State and I never considered myself or any of my classmates part of the socially elite. I also took out student loans. I do not know what Mr. Miller is talking about there.

Low-income students depend on the Federal Government to provide them with the opportunity to attend college. Congress has a responsibility to ensure that this opportunity is real and not just false hopes peddled on a billboard or a pop-up ad or an enticing phone call.

With that, I will turn it over to our Ranking Member, Senator Enzi, for his opening statement before I introduce our witnesses.

OPENING STATEMENT OF SENATOR ENZI

Senator ENZI. Thank you, Mr. Chairman, and I appreciate the work and effort that you went to on this report. I hope that there is going to be a similar analysis for the traditional 2-year and 4-year colleges and universities and fill in some of the gaps of the available data on this. I think it might be enlightening to us on a lot of the taxpayer dollars that are being spent and will help to answer more of the questions that are raised by those charts.

Today's hearing on for-profit institutions of higher education does come at an important time. These schools are increasingly reaching more and more Americans who are not served by traditional higher education. They are an essential part of our efforts to provide every American with the skills necessary to be a valuable part of the workforce. As Secretary Duncan recently said,

> "Let me be crystal clear. For-profit institutions play a vital role in training young people and adults for jobs. They are critical to helping America meet the President's 2020 goal. They are helping us to meet an ever-increasing demand for skills that public institutions cannot always meet."

To understand the for-profit sector, we must first get a better understanding of the variety of institutions in it and the diversity of the students they serve. As our witnesses will demonstrate, many of the for-profit schools resemble the traditional 4- and 2-year colleges where students receive associates, bachelors, and masters degrees in fields such as business, nursing, and engineering.

Many others are less familiar to us but provide the educated and skilled workforce that we rely on today. Among these are the auto mechanic, truck driving, and beauty schools. Many more provide courses online providing working adults and rural communities access to college credit they once did not have because of the time constraints or distances they would have had to travel.

In general, the students at each of these schools tend to be older, lower-income, and more likely to be minorities. Many have already spent years in the workforce and returned to school in order to change careers. Others seek to improve their skills in order to advance in their current jobs, and as is often the case in today's economy, many have been laid off and are looking to gain skills that will make them more attractive to employers.

Thousands of students have chosen for-profit schools because they offer the flexibility in scheduling and training not readily available at traditional institutions of higher education. Furthermore, these institutions provide thousands of students with a valuable education that will lead to productive and rewarding careers.

Unfortunately, as in other industries, there are bad actors. As we have undoubtedly read and will hear about in the Inspector General's testimony, some for-profit schools have attempted to game the system in order to gain access to more Federal dollars. Other schools have recruited at homeless shelters, misrepresented the quality of the education their students receive, and made unrealistic promises of high-paying jobs upon completion. Such actions are simply unacceptable, and I applaud Secretary Duncan's commitment to ending this kind of behavior.

However, in combating this behavior, it is essential that we use a scalpel and not a machete. Whatever protections are put in place must eliminate bad actors and ensure that we do not unintentionally harm students in legitimate programs.

Finally, I want to express my disappointment that we did not have the opportunity to work together in preparing this hearing. Over the last several years, the HELP Committee has had a successful history of bipartisan cooperation that has made it one of the most productive committees in the Senate, despite the often divergent views of its members.

Mr. Chairman, when Senator Alexander and I wrote to you asking for hearings on the Department of Education's proposed regulations, it was our sincere hope that we would work together in the spirit of bipartisan tradition. That is not the case with this hearing, and I am concerned that this hearing will not provide members with a full and objective understanding of the issues facing the for-profit sector. I am also concerned that it might set a precedent for future hearings on this issue and others before the committee.

Therefore, I would like to request that you commit to working together on future hearings that you hold on this issue. Doing so will ensure that members of this committee have a full understanding of all the issues so that our Nation's students are well served and quality programs are available to meet their needs.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Enzi.

Now we will go to our witnesses. We have two panels. Our first panel will be a singular witness and that is Ms. Kathleen Tighe. Did I pronounce that correctly? Kathleen Tighe, Inspector General at the U.S. Department of Education. Ms. Tighe was sworn in as the Inspector General on March 17, 2010. Prior to this she was the Deputy Inspector General at the U.S. Department of Agriculture, Counsel to the Inspector General at the General Services Administration, and a trial attorney with the Fraud Section of the Commercial Litigation Branch of the Department of Justice, a distinguished background.

Ms. Tighe, thank you very much for your appearance here and for your work as the Inspector General. Your entire statement will be made a part of the record in its entirety, and if you could please proceed and summarize it for us, we would be most appreciative.

STATEMENT OF KATHLEEN S. TIGHE, INSPECTOR GENERAL, OFFICE OF THE INSPECTOR GENERAL, U.S. DEPARTMENT OF EDUCATION, WASHINGTON, DC

Ms. TIGHE. Thank you very much, Chairman Harkin, Ranking Member Enzi and members of the committee. Thank you for inviting me here today to discuss the U.S. Department of Education Office of Inspector General's work involving for-profit post-secondary institutions, known as proprietary schools.

This is my first opportunity to testify before this committee since it approved my nomination as the Inspector General earlier this year. It is an honor to have received your support to lead this organization and I look forward to working with you to improve Federal education programs and operations so they meet the needs of America's students and families.

As members of this committee know, the Federal student aid programs have long been a focus of our audit, inspection, and investigation work as they have been considered highly susceptible to fraud and abuse. This includes extensive work involving proprietary institutions.

My written testimony provides more detailed information on our work, oversight challenges, and recommendations for strengthening statutes impacting Federal student aid programs. For purposes of this statement, I will focus on the types of fraud and abuse our work has identified involving proprietary schools.

According to the Department, Federal student aid funding for proprietary institutions grew by over 109 percent from 2004 and 2005 to 2008 and 2009, while funding for public and nonprofit institutions grew by approximately 40 percent for the same time period.

In 2005, we testified before Congress on the topic of waste, fraud, and abuse in the proprietary sector. At that time, we reported that the majority of our post-secondary institutional audits and investigations involved proprietary schools. More than 5 years later, this continues to be the case.

Since 2005, we issued 37 reports on post-secondary institutions, 21 of which involved proprietary schools. Seventy-percent of our current investigations involving post-secondary institutions are proprietary school-related.

Proprietary institutions have been eligible to participate in the Federal student aid program since 1972. The sector has evolved from being predominantly vocational trade institutions to not including degree-granting institutions. Proprietary schools have also evolved into two classes of institutions. Some are privately held and others are parts of much larger publicly traded corporations. Both are driven by profit and can also be driven by the need for growth.

The volume of Federal student aid dollars going to the publicly traded sector has seen tremendous growth in recent years, as already noted. According to the Department, the title IV funding going to publicly traded corporations grew from $5.9 billion in 2003 and 2004 to $15.6 billion in 2008 and 2009.

There are several recurring issues of fraud and abuse involving proprietary institutions that our work has identified. We have seen a number of instances in which schools have falsified student eligibility, including enrollment, attendance, and high school diplomas and GEDs in order to qualify students to obtain or continue to maintain Federal student aid.

Refund violations have been a longstanding problem in proprietary institutions also. When a student ceases to attend a school, the school must determine if a refund is owed, calculate the amount of the unearned Federal student aid, and then return those funds to the appropriate party. Failing to pay refunds is a criminal offense under the Higher Education Act. We have seen institutions fail to pay timely refunds, miscalculate refunds, and fail to pay refunds at all.

In Federal student aid programs, a proprietary school must derive at least 10 percent of its income from sources other than title IV. Schools sometimes miscalculate and devise other creative accounting schemes to make sure that they comply with what is known as the 90/10 rule.

In the area of distance education, determining whether a student has enrolled in an online program and is in attendance for purpose of Federal student aid is difficult and subject to abuse. We have found proprietary schools have improperly disbursed and retained Federal student aid funds based on undocumented or even fictitious enrollment and attendance status of students.

Although we discuss cohort defaults in our written testimony in the context of being an oversight challenge, I also note we have seen the fraudulent manipulation of cohort default rates by proprietary schools for the purposes of ensuring that they remain low.

Last week, the Department issued its notice of proposed rulemaking proposing new regulations for the Federal student aid program, a number of which address program integrity issues related to proprietary schools. These include a proposed definition of a credit hour and changes to rules governing incentive compensation by eliminating the regulatory safe harbors. Other changes proposed include the improvement to the rules protecting students from misrepresentation, governing ability to benefit testing, and satisfactory academic progress, and establishing a process to check whether a high school diploma is valid for student eligibility purposes.

We will comment on the proposed final rules and monitor the implementation of those rules.

We are committed at the Office of Inspector General to promoting accountability, efficiency, and effectiveness in all Federal education operations and programs and will continue to assist the Department in its efforts to identify and reduce fraud and abuse to safeguard Federal student aid dollars and help ensure these funds reach the right recipients.

This concludes my statement and I am happy to answer any questions.

[The prepared statement of Ms. Tighe follows:]

PREPARED STATEMENT OF KATHLEEN S. TIGHE

Chairman Harkin, Ranking Member Enzi and members of the committee, thank you for inviting me here today to discuss the U.S. Department of Education (Department) Office of Inspector General's work involving for-profit post-secondary institutions, referred to herein as proprietary institutions. This is my first opportunity to testify before this committee since it approved my nomination as the Inspector General earlier this year. It is an honor to have received your support to lead this organization, and I look forward to working with you to improve Federal education programs and operations so they meet the needs of America's students and families.

Before I begin my testimony, I would like to take this opportunity to recognize the Department for the release of its Notice of Proposed Rulemaking last week. I would also like to acknowledge the higher education community, whose discussions with the Department throughout the 2009–2010 negotiated rulemaking sessions contributed to the development of the Department's proposed rules—a number of which address program integrity issues related to proprietary institutions that I will talk about today. We will comment on the proposed rules and monitor the implementation of the final rules, and do what we can to ensure that they assist in protecting our Nation's students, parents and taxpayers.

I would also like to take a moment to address the significant change coming to the Federal student aid programs on July 1, 2010. *The Health Care and Education Reconciliation Act of 2010*, Public Law 111–152, mandated there will be no new Federal Family Education Loan (FFEL) originations as of July 1, 2010. As a result, in a very short period of time, the Department must assist schools in transitioning to process all new loans under the William D. Ford Direct Loan program (Direct Loan), oversee the wind down of the FFEL program and its billions in Federal assets and improve its oversight of additional contractors, while managing the risks presented by post-secondary institutions and the vulnerabilities that exist with distance education. Ensuring that the Department's infrastructure, processes, oversight, and monitoring are effectively operating in order to guarantee that every eligible American student receives the aid to which he or she is entitled is of vital concern to this committee as well as to my office and will continue to be a major focus of our efforts.

BACKGROUND ON THE OIG AND FEDERAL STUDENT AID PROGRAMS

As members of this committee know, the Federal student aid programs have long been a major focus of our audit, inspection, and investigative work, as they have been considered highly 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. The Department provided $129 billion in aid to students and parents during fiscal year 2009 and has an outstanding student loan portfolio of more than $600 billion.

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. This includes extensive work involving proprietary institutions. According to the Department, Federal student aid funding for proprietary institutions has grown by 109.4 percent from 2004–2005 to 2008–2009, while funding for public and non-profit institutions grew by approximately 40 percent for the same time period.

The HEA provides eligibility criteria that an institution must meet in order to participate in the Federal student aid programs. State educational agencies, accrediting agencies, and the Department all have responsibility for program integrity to ensure that institutions meet, and continue to meet, requirements for participation in the Federal student aid programs. For example:

- States provide licensing or other authorization necessary for an institution of higher education to operate within a state;
- Accrediting agencies, recognized by the Secretary of Education (Secretary) as reliable authorities on the quality of education or training offered, must establish, consistently apply, and enforce standards for eligibility; and
- The Department assesses and certifies that an institution meets the HEA's eligibility criteria for administrative and financial responsibility. It must also conduct program reviews, on a systemic basis, designed to include all institutions of higher education participating in the Federal student aid programs.

Institutional eligibility, certification, and oversight requirements in the HEA are the same for all types opposite institutions except for two requirements. One of these requirements applies only to proprietary institutions, and the second applies to both proprietary and post-secondary vocational institutions.

Statutory Revenue Provision for the Proprietary Sector

The HEA provides a criterion that is unique to proprietary institutions of higher education. Known as the "90/10 Rule," the provision requires a proprietary institution to have at least 10 percent of the institution's revenues from sources that are not derived from funds provided under the student financial assistance programs, as determined in accordance with regulations prescribed by the Secretary. Compliance with the 90/10 Rule must be calculated annually, based on the institution's fiscal year. *The Higher Education Opportunity Act of 2008* changed the 90/10 Rule from an institution eligibility criterion to a condition of program participation, and provided additional resources to be included as institutional revenue. These amendments were a significant change that made it easier for institutions to meet the 90/10 Rule, and institutions that fail to comply with the Rule are now allowed to continue participation in the Federal student programs for 2 years while they attempt to meet the Rule. The institution must report the calculation as a footnote to the institution's annual audited financial statements. The institution's independent certified public accountant is expected to test the accuracy of the institution's assertion as part of the audit of the financial statements.

Statutory Provision for Training Programs

The HEA provides an eligibility criterion that is unique to proprietary institutions and post-secondary vocational institutions regarding programs of training. These institutions must provide an eligible program of training to prepare students for gainful employment in a recognized occupation. This requirement does not apply to nonprofit and public sector institutions' associate, bachelors, or postgraduate degree-granting programs.

ROLE OF THE OIG IN PROGRAM OVERSIGHT

In 2005, OIG testified before Congress on the topic of waste, fraud, and abuse in the proprietary sector. At that time, we reported that, historically, the majority of our post-secondary institutional audits and investigations involved proprietary schools. More than 5 years later, this continues to be the case.

OIG generally opens an investigation as a result of credible evidence developed from complaints and other sources that may indicate fraud. Audits or inspections are generally initiated to assess specific areas of compliance but may also be initiated as the result of a complaint. Since our 2005 testimony, OIG has issued 37 reports on post-secondary institutions, 21 of which involved proprietary schools. In 2005, we reported that looking at the previous 6 years of data, 74 percent of our post-secondary institutional investigations involved proprietary institutions. Today, that number is very similar—70 percent of our current investigations involving post-secondary institutions are proprietary school-related.

FRAUD AND ABUSE IN THE PROPRIETARY SECTOR

Proprietary institutions have been eligible to participate in the Federal student aid programs since 1972. This sector has evolved from being predominately vocational trade institutions and now includes degree-granting institutions. Proprietary institutions have also evolved into two classes of institutions: some are privately held and others are parts of much larger publicly traded corporations. Both are driven by profit and can also be driven by the need for growth. The volume of Federal student aid dollars going to the publicly traded sector has seen tremendous growth in recent years. Over the years, we have come to identify a relationship between rapid growth and failure to maintain administrative capability. The following are several examples of the types of fraud and abuse our work has identified involving proprietary institutions.

Falsification of Eligibility

Our audits and investigations have identified proprietary schools that falsify student enrollment, attendance, high-school diplomas, General Educational Development certificates, ability-to-benefit exam results, and satisfactory academic progress in order to qualify the students to obtain or continue to maintain Federal student aid. Schools also improperly received Federal student aid funds because they failed to perform or falsified the verification required under the Department's regulations for students. We have found schools that enrolled students in programs that do not meet the minimum program eligibility requirement and institutional locations that do not meet basic eligibility requirements.

Refund Violations

Refund violations have been a longstanding problem in proprietary institutions. We continue to identify this problem in our audits and investigations. Refunds, which are referred to as "Return of Title IV Funds" under the HEA, are triggered when a student ceases to attend an institution. The institution must determine if a refund is owed, calculate the amount of the unearned Federal student aid, and then return those funds to the Department, the FFEL loan holder, or to another applicable participant in Federal student aid programs within a specified number of days. Violations of this requirement occur when refunds are not timely paid, when incorrect calculations result in returning insufficient funds, and when institutions fail to pay refunds at all. Failure to pay refunds is a criminal offense under the HEA. We have found all three types of refund violations in our audits, and these violations are the frequent subject of our investigations.

90/10 Rule

Defined previously in this testimony, proprietary institutions must meet the 90/10 Rule every fiscal year to continue participation in Federal student aid programs. We have identified proprietary institutions that miscalculate or devise other creative accounting schemes (*e.g.,* fake institutional scholarships and loans) to make it appear they met this rule. When this occurs, ineligible institutions have continued to participate in the Federal student aid programs.

Incentive Compensation

We receive and review complaints of aggressive recruiting and violations of the HEA's ban on incentive compensation by proprietary institutions. We have reviewed compensation plans that are clearly providing direct financial incentives for recruiters to increase enrollment. However, due to the safe harbors included in the Department's current regulations, in many cases, schools are shielded from administrative, civil, and criminal liability. Proprietary institutions are making full use of the safe harbors in the Department's regulations to provide financial incentives to drive enrollment. In 2002, when the Department originally promulgated the safe harbor rules, we advised the Department that provisions of those regulations were contrary to the requirements of the HEA and reported our disagreement to Congress. In its Notice of Proposed Rulemaking issued last week, the Department proposes to eliminate all safe harbors and return to the clear ban on incentive compensation stated in the HEA. This is a significant step to eliminate aggressive recruiting practices.

Distance Education

Distance education—both at proprietary and non-profit institutions—is an area that is placing increased demands on our investigative and audit resources and highlights the need for greater oversight and statutory or regulatory change. The issue is determining whether students in distance education are "regular students, as defined by the HEA, and actually in attendance for Federal student aid purposes. 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. 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. On-line instruction typically consists of posted reading materials and assignments, chat-room and e-mail 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 statute or regulations. 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.

EVOLVING OVERSIGHT CHALLENGES

As we noted earlier, the Federal student aid programs are complex and inherently present risk. Following are several examples of what we consider evolving oversight challenges that impact both proprietary and non-profit institutions.

Accrediting Agencies Lack Meaningful Standards for Program Length

In 2009 and 2010, we evaluated regional accrediting agency standards for program length and the definition of a credit hour. We examined three of the seven regional accrediting agencies to determine what guidance regarding program length and credit hours they provided to institutions and peer reviewers, and the documentation they maintained to demonstrate how they evaluated institutions' program length and credit hours. The three accrediting agencies reviewed represent one-third of the institutions participating in Federal student aid programs: 2,222 post-secondary institutions with more than $60 billion in Federal student aid funding. We found that none of the accrediting agencies defined a credit hour and none of the accrediting agencies provided guidance on the minimum requirements for the assignment of credit hours. At two of the accrediting agencies, we were told that student learning outcomes were more important than the assignment of credit hours; however, these two accrediting agencies provided no guidance to institutions or peer reviewers on acceptable minimum student learning outcomes at the post-secondary level.

While conducting our inspection at one of the agencies, we identified a serious issue that we brought to the Department's attention through an Alert Memorandum: the Higher Learning Commission of the North Central Association of Colleges and Schools (HLC) evaluated American InterContinental University (AIU)—a proprietary institution owned by Career Education Corporation (CEC)—for initial accreditation and identified issues related to the school's assignment of credit hours to certain undergraduate and graduate programs. HLC found the school to have an "egregious" credit policy that was not in the best interest of students, but nonetheless accredited AIU. HLC's accreditation of AIU calls into question whether it is a reliable authority regarding the quality of education or training provided by the institution. Since HLC determined that the practices at AIU meet its standards for quality, without limitation, the Department should be concerned about the quality of education or training at other institutions accredited by HLC. Based on this finding, our Alert Memorandum recommended that the Department determine whether HLC is in compliance with the regulatory requirements for accrediting agencies and, if not, take appropriate action under the regulations to limit, suspend, or terminate HLC's recognition by the Secretary. The Department initiated a review of HLC and determined that the issue identified was not an isolated incident. As a result, the Department gave HLC two options for coming into compliance: (1) to accept a set of corrective actions determined by the Department; or (2) the Department would initiate a limitation, suspension, or termination action. In May 2010, HLC accepted the Department's corrective action plan.

In addition, in its Notice of Proposed Rulemaking issued last week, the Department proposed a definition of a credit hour and procedures for accrediting agencies to determine whether an institution's assignment of a credit hour is acceptable.

Borrower Defaults

Considering the economic downturn over the last several years, combined with escalating student loan debts, a significant concern is the potential for increased loan defaults as we have seen the national cohort default rate increase recently. As an example, last year, the Department announced that the fiscal year 2007 national student loan cohort default rate increased to 6.7 percent, up from the fiscal year 2006 rate of 5.2 percent. The 2007 cohort default rate for schools participating in the FFEL Program was 7.2 percent, a 36 percent increase over the 2006 rate of 5.3 percent. The 2007 cohort default rate for schools participating in the Direct Loan Program was 4.8 percent, a 2 percent increase over the 2006 rate of 4.7 percent. The FFEL portfolio has a larger percentage of proprietary schools, which have higher default rates, and a lower percentage of public and private 4-year schools, which have lower default rates. Fiscal year 2007 national cohort default rate was 6.7 percent, while the proprietary school default rate was 11 percent.

In a 2003 audit report we concluded that cohort default rates do not appear to provide decisionmakers with sufficient information about the rate of default in the student assistance programs. Currently, to identify defaults, cohort default rates track the cohort of borrowers entering repayment in a fiscal year, through the following fiscal year. After the second fiscal year, subsequent defaults by the borrowers in the base-year cohort are not included in cohort default rate calculations. While the *Higher Education Opportunity Act of 2008* changed this calculation to track borrowers over 3 years, this change will still not adequately reflect all defaults.

Not addressed by this change were two issues noted in our earlier report. In that report, we identified that cohort default rates were not a true representation, as they were reduced by: (1) a statutory change to the HEA's definition of default from 180 days of delinquency to 270 days of delinquency; this 90-day delay excludes a significant number of defaulters from the cohort default rate calculation; and (2) an increase in the use of deferments and forbearances. Deferment entitles a borrower to have periodic installment payments of principal deferred during authorized periods; forbearance permits the temporary cessation of payments. We found that deferments and forbearances had more than doubled in the period we examined. Borrowers in deferment or forbearance do not make payments on their loans, so they are not counted as defaulters, but they continue to be counted with other students in the cohort, thus reducing the cohort rate. While we recognize that the Congress has provided additional repayment flexibilities, when borrowers reach the limits on deferments and begin repayment they may still lack the income and eventually default and are not accounted for in the cohort default rate.

Estimating future loan defaults is a very difficult process. As part of the requirements related to the *Federal Credit Reform Act of 1990*, as amended, the Department must annually estimate loan volumes and the attendant costs, and in doing so, factor in economic conditions. Our financial statement auditor has raised concerns about the Department's estimation process, including its failure to take into account recessionary conditions, and has made a number of recommendations for improvements. The Department's credit reform estimates continue to be reported in our audit of the financial statements as a significant internal control deficiency.

Direct Loan Program

Guaranty agencies have always had a responsibility to enforce the requirements for school participation in the FFEL program and have served as an important source of possible waste, fraud, or abuse referrals for our office. As guaranty agencies move away from guaranteeing and performing oversight of loans for currently enrolled students, they will no longer serve as a source of oversight and information on school participation in the loan programs.

In the transition to the Direct Loan program, the Department will have to itself perform the school loan oversight function previously performed by guaranty agencies. Loan origination and servicing functions previously performed by lenders and guaranty agencies in the FFEL program are now the responsibility of the Department. The Department relies on contractors to perform these functions in the Direct Loan program. The Department had to modify its loan origination system, assure all institutions are capable of using the system, and contract with four new loan servicers last year to service the loans it purchased from lenders and handle the increased volume in the Direct Loan program.

Because the Direct Loan program will become the largest lending program within the Federal Government, we are examining the applicability of Federal banking statutes to determine if similar statutory provisions for enhanced program integrity should be recommended for the Department, as they have been for other Federal lending programs.

OIG RECOMMENDATIONS FOR STRENGTHENING LAWS/REGULATIONS

In your invitation for me to testify today, you asked me provide an assessment of whether current laws are sufficient to protect students and taxpayers. Congress could address two areas that would increase accountability in post-secondary education and the Federal student aid programs, as well as provide additional oversight tools and assist in reducing fraud and abuse in the programs: amending the Internal Revenue Code to permit an Internal Revenue Service (IRS) income match for student loan applicants and reconsider the cost of attendance for individuals engaged in on-line education courses.

IRS Match

Since 1997, we have recommended implementation of an IRS income data match, which would allow the Department to match the information provided on student's application for Federal student aid with the income data that is maintained by the IRS. While the HEA has been amended to permit this match, a corresponding amendment to the Internal Revenue Code has not been enacted. This action would go a very long way to identifying income inconsistencies and eliminating an area of fraud and abuse within the student financial assistance programs.

While the Department began a pilot project this January to allow applicants the choice to have the Department obtain income data directly from the IRS, we do not believe it likely that those individuals intent on defrauding the program by providing false income information would select the IRS option. Leaving this area unaddressed creates additional burdens for institutions to verify an applicant's income and victimizes unsuspecting students and parents who are advised by unscrupulous financial aid consultants to commit this type of fraud. Our investigations have found that some officials at proprietary institutions have encouraged students to falsify their income and dependents to qualify for Federal student aid.

Cost of Attendance Calculations for Distance Education Programs

Since 2001, OIG has recommended that the HEA be amended to address cost of attendance (COA) calculations for on-line learners. Currently, students in on-line programs and residential programs can be eligible for the same amount of Federal student aid based on the same COA. The COA as defined by the HEA primarily includes:

- Tuition and fees normally assessed a student, including the costs for rental or purchase of any equipment, materials, or supplies;
- An allowance for books, supplies, transportation, and reasonable miscellaneous personal expenses, including a reasonable allowance for the documented rental or purchase of a personal computer;
- An allowance for room and board costs incurred by the student which shall be an allowance for (a) students without dependents residing at home with parents, (b) students without dependents residing in institutionally owned or operated housing, and (c) for all other students an allowance based on the expense reasonably incurred for room and board; and
- An allowance for dependent care for students with dependents.

The HEA limits the COA for students engaged in correspondence courses to tuition and fees, and, if required, books, supplies, and travel. There is no similar limitation for on-line students. With the explosion of on-line education in recent years and the number of full-time working individuals that take these courses, a COA budget that includes an allowance for room and board for on-line learners may not be in the best interest of American taxpayers and may allow students to borrow more than is needed. We also note that under the Post-9/11 GI Bill, Congress has already determined that active duty personnel and veterans enrolled exclusively in on-line programs should receive reimbursement only for tuition and fees and not receive a housing allowance. Congress should reconsider the COA calculation for distance education programs under the HEA, which could reduce loan borrowing, decrease loan debt, and reduce the amount of funds available above tuition and thus obtainable by individuals who seek to defraud the Federal student aid programs through on-line fraud schemes.

CLOSING REMARKS

In closing, I would like to once again mention the Department's recently proposed regulations governing the Federal student aid programs, many of which we have previously identified and recommended to the Department through our audit, inspection, and investigative work. The Department has proposed a definition of a credit hour and changes to the rules governing incentive compensation by eliminating regulatory safe harbors. Other changes proposed include improvements to the rules (1) protecting students from misrepresentation, (2) governing ability-to-benefit testing and satisfactory academic progress, and (3) establishing a process to check whether a high school diploma is valid for student eligibility purposes. Again, we will comment on the proposed rules and monitor the implementation of the final rules. We believe changes in all these areas will improve protections for students and taxpayers. In the meantime, let me reiterate that OIG is committed to promoting accountability, efficiency, and effectiveness in all Federal education operations and programs. We will continue to assist the Department in its efforts to identify and reduce fraud and abuse, to safeguard Federal student aid dollars, and to help ensure that these funds reach the intended recipients.

On behalf of the OIG, I want to thank you for the support this committee has given to this office over the years. We look forward to continuing to work with Congress in furthering our goals and achieving our mission.

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

The CHAIRMAN. Well, Ms. Tighe, thank you very much. I think that correctly sums up your more extensive statement which I read last evening.

In the course of your office's audit work, can you describe how for-profit schools use deferments and forbearances to lower their cohort default rate? Explain that, please.

Ms. TIGHE. Yes. I would like to explain it in two different ways. One is not fraudulent and one is fraudulent.

Often schools will look at students who have withdrawn and contact those students and work with them to give them information on deferment and forbearance options, and they will continue to work with those students until the students have reached the point where they would not be included in the cohort default rate. Now, that can be sometimes a benefit to the student because it is nice to know options. It is nice to have those put before you, but it will also benefit the school because the students may not default until after the cohort period has ended.

The CHAIRMAN. What is a cohort period? Is that 3 years?

Ms. TIGHE. Well it has been changed to be 3 years. Currently it is 2 years, but beginning for fiscal year 2009—it will not be calculated for the first time until fiscal year 2012 as a 3-year period.

The CHAIRMAN. Are you telling me in plain English that I can understand that if a school can get a student who is nearing default to put off their default status for 2 years or 3 years, then when that student defaults, it does not show up on the student's records?

Ms. TIGHE. That is correct.

The CHAIRMAN. I understand that now.

And you say this is being done.

Ms. TIGHE. That is being done.

Now, where we see problems that have led to criminal investigations is where essentially the schools—we had a school, one involving a school called TCI where the school repaid the students' accounts, students who withdrew from school. The school went in, repaid the school accounts to avoid having them considered in the cohort default numbers. Then they turned around and charged the students for the tuition costs. They gave the students a very short time period to pay the school back and subsequently referred them to collection agencies. All of that effort to avoid the cohort default rate.

We have also seen schools that have literally forged the students' names to deferment notices and sent them in on behalf of the students without the students' knowledge.

The CHAIRMAN. In my time, let me ask you to elaborate a bit on your findings regarding refund violations. Now, we know that schools have to refund depending on how long the student is there at a certain prorated amount.

Can you explain the requirements Congress has put into place to try and ensure title IV is returned to the Federal Government when a student withdraws? And what specific practices have your audits shown that violate these requirements?

Ms. TIGHE. There are a number of rules related to the return of title IV funds. There is a calculation that is predetermined. There are time periods the schools have to do it by, and that is audited annually by outside auditors.

However, what we have seen in the course of looking at different schools is essentially either miscalculation errors—I mean, that is not a really significant problem. They are trying to do it. They are just not doing it correctly. We have also seen them fail to pay it timely. I think it is a 45-day limit. We have seen schools that had paid it longer than the 45 days.

Where we see the really big problems is when they just do not return the money at all, and we have had a number of criminal cases based on that problem.

The CHAIRMAN. Last, let me just ask you about the accrediting agencies' definition of a credit hour. You mentioned that and you found that none of the accreditors you looked at actually define a credit hour. Yet, my understanding is that many for-profit schools set tuition based on a credit hour charge. Do you have an understanding of how credit hours might compare from one for-profit school to another?

Ms. TIGHE. Well, I think the problem—because there is no definition of a credit hour, it would be difficult to compare school to school. I think in the traditional 4-year institution where it may be the former Carnegie method which is 1 hour of seat time and 2 hours of homework, you could compare some schools. Other schools, even though they use a definition of credit hour or they may say credit hour, it is not really defined in any meaningful sense. That is what our audit work in looking at the accrediting agencies ended up—we looked at them to see whether they were requiring that and their failure to do so we believe is a problem.

The CHAIRMAN. Well, if you cannot define a credit hour, how can you set tuition based upon a credit hour? That is the question I have.

Ms. TIGHE. Well, I think it is a problem. What we have found is that credit hours can, in fact, be inflated.

The CHAIRMAN. Inflated.

Ms. TIGHE. Inflated. In other words, the tuition may be higher than is needed for what the student is getting out of it. Then if they are taking our student loans, those loans may be higher than is needed for the value the student is getting out of it.

The CHAIRMAN. I see. My time has expired. Thank you, Ms. Tighe.

Senator Enzi.

Senator ENZI. Thank you, Mr. Chairman.

It reminds me. I went to a GED graduation at Casper College. They put out a tremendous number of GEDs at Casper College, and they told me that our requirement for seat time on hours was too long, that that discourages a lot of kids from getting their GED. This credit-hour discussion I think should be pursued and we should find out more about it.

Ms. Tighe, you mentioned that 70 percent of your investigations are in the for-profit area. Are those all criminal investigations?

Ms. TIGHE. Yes, they are criminal investigations.

Senator ENZI. What percentage of the for-profits make up that 70 percent of your investigation work? Is it all of them?

Ms. TIGHE. Well, yes, all of them are for-profit. Of the 70 percent of the institutional investigations we have, 70 percent are for-profit.

Senator ENZI. Yes, I understand that. But of all the for-profits, are they all in that category of being investigated or is it 10 percent, 20 percent, 50 percent?

Ms. TIGHE. Well, they are all in that category, and what we say is they are proprietary school-related because what we get sometimes are bad actors associated with the school, and in fact, the proprietary school can be a victim. They may have a bad actor within the school taking advantage, and maybe their problem is that they do not have the controls in place to have caught it. Or maybe they do. We do actually get referrals from some proprietary schools.

Senator ENZI. So you are investigating all proprietary schools then.

Ms. TIGHE. We are not investigating all the schools that exist. We just have—of our caseload related to post-secondary institutions, 70 percent are proprietary schools. We have other investigations involving nonproprietary schools. That is 30 percent of the other part of our caseload. We also have other cases that do not involve schools of higher education. I am sorry.

Senator ENZI. I am more confused than when I started.

Ms. TIGHE. I am probably not——

Senator ENZI. So 70 percent of all of the schools are for-profit schools, so that you are investigating 70 percent of your caseload. It is about an equal number of people that are violating things in both sectors.

Ms. TIGHE. Taken apart from our caseload, I do not know how many, just in general, schools are proprietary and whether we match up evenly in terms of our numbers. We do know we have a large number of proprietary schools in our——

Senator ENZI. You have just given me the impression, though, that you are investigating 100 percent of the for-profits.

Ms. TIGHE. No, if I gave that impression, I am sorry.

Senator ENZI. What I was trying to get at is what percentage of them are you investigating.

Ms. TIGHE. I don't know if we have an answer to that. No, we do not know the answer to that. I am sorry for confusing you.

Senator ENZI. Do you have widespread evidence of abuses throughout the for-profit sector?

Ms. TIGHE. Well, yes. I have given you a flavor of the kinds of cases we see. We certainly get more—our work comes in through referrals, and so we see—the reason our cases involving proprietary schools—we have more of them because we tend to get more referrals on those cases. Now, whether they cross the gamut of all the different kinds of proprietary schools there, I do not know if we can say. I do not think we have studied it quite that way.

Senator ENZI. Well, thank you.

Congress did take a number of steps to address for-profits in the Higher Education Opportunity Act, and we are now working on the reauthorization of the Elementary and Secondary Education Act. Do you have any recommendations for policy changes that we should make particularly with regard to the high school diplomas?

Ms. TIGHE. Well, I think the high school diplomas—I know that the recent proposed rules, at least as something to tighten up the problem of the diploma mills, at least requires school procedures for checking the validity of those diplomas.

One thing we have recommended in the context of the ESEA reauthorization is a recommendation for reporting fraud issues to the Inspector General's office. There is something in the Higher Education Act. Something similar in ESEA we think would make sense, and we carry it down to the level where we think we need to be in terms of having schools know they have somebody they can come to if they see problems.

Senator ENZI. Thank you. My time is about to expire.

The CHAIRMAN. Thank you, Senator Enzi.

In order, I have Senator Franken, Senator Alexander, and then Senator Brown, Senator Merkley, Senator Bennet, and Senator Hagan.

Senator Franken.

STATEMENT OF SENATOR FRANKEN

Senator FRANKEN. Thank you, Mr. Chairman, and thank you for your report and thank you for this very, very important hearing.

It just is shocking to me how much of you give Pell Grants. You want to give Pell Grants to kids. My wife's dad died young and there were five kids in the family and they used Pell Grants and they went to public or not-for-profit schools.

Seventy percent of the schools you are investigating are proprietary. What percentage of schools are proprietary as opposed to not proprietary? In other words, how many proprietary schools are there versus not-for-profit?

Ms. TIGHE. In total number? Off the top of my head, I do not know the answer to that.

Senator FRANKEN. Are there more proprietary schools——

Ms. TIGHE. Schools than there are——

Senator FRANKEN. I would very much doubt that.

Ms. TIGHE. There are more public and nonprofits, I understand, than there are numbers of proprietary—

Senator FRANKEN. And I would think by quite a factor, right? These proprietary schools are much, much, much, much more likely to be investigated.

Ms. TIGHE. Yes, they are, at least looking at our workload, yes.

Senator FRANKEN. Now, you in your testimony just now said—you used words like "fictitious enrollment," "forging names," "credit hours inflated." This is all fraud.

Ms. TIGHE. Yes, it is. I think one of the areas that we are particularly seeing problems in is the online environment. A lot of the schemes we see where you are really able to get by with fictitious enrollment is when you are enrolling students for online courses. We had one case where it combined diploma mill and the fictitious enrollment and student aid applications, which is somebody ran a student to get a high school diploma. Students came in for 2 weeks of self-study, got a diploma that obviously meant nothing, a high school diploma, and then they used the application information from the students to apply to online schools on their behalf and apply for student aid. You know, I agree with you that it is shocking.

Senator FRANKEN. My staff gave me this. Less than 10 percent of students attend for-profit schools, and yet 70 percent of the fraud cases are for-profit schools. There is a real problem here.

Now, I agree with the chairman. I agree with the Ranking Member. These schools serve a purpose, and some of them do a good job. But there is obviously an incredible number of bad actors. I would like to shut them down.

We went through this to get the health care bill done. We increased the amount of Pell Grants. Well, if they are going to use fraud—what are the salaries? What is the salary of the top for-profit school CEO?

Ms. TIGHE. I am not sure.

Senator FRANKEN. I think it is somewhere in the range of like what—$40 million? It is ridiculous.

What is the salary of the President of Harvard? It is like a factor of 100 or something.

What is the graduation rate at Harvard? What is the graduation rate of a typical one of these schools?

What kind of laws do we need to shut down the bad actors?

Again, I am saying that a lot of these schools or a number of these schools are absolutely necessary. They do a great job, but the bad actors who are doing fictitious enrollment, forging names, inflating credit hours, should be shut down. What kind of laws do we need to pass to shut them down? You are prosecuting them, I guess.

Ms. TIGHE. Yes, and we are able to get them. I think some of the changes—actually the proposed rule that just came out will help some of the practices we have seen. For example, they have expanded the definition of misrepresentation. I think that is a good thing for students because if the schools are required to accurately market themselves, the students will get good information. I think to the extent that they have to publish placement rates, I think that is a good thing for students too because I think accurate information can allow students to make good judgments. I think we will certainly continue to make this a priority in our workload and make sure we get the bad guys.

I do think also another thing to mention is the incentive compensation. We have never been able to really successfully prosecute a case, even though we got a lot of complaints in the area of incentive compensation because of the safe harbor rules.

Senator FRANKEN. Now, incentive compensation is like——

Ms. TIGHE. It is when recruiters get paid based on enrollment. It is very easy under the safe harbors in order to show that there is some factor other than enrollment that allows the recruiters to get paid and get salary increases. I think that it is an area that we have received a number of complaints, and never been able to really do anything about. A lot of qui tam cases have been filed under the False Claims Act. They have never been really successfully pursued.

Senator FRANKEN. Well, my time is done. We talk about waste, fraud, and abuse around here, and I am thinking we are hearing it today.

The CHAIRMAN. Thank you, Senator Franken.
Senator Alexander.

STATEMENT OF SENATOR ALEXANDER

Senator ALEXANDER. Thanks, Mr. Chairman, and thank you for having the hearings. I think the hearings are important and I think we should be doing it. Oversight is a big part of our responsibility.

Mr. Chairman, I remember when I was Education Secretary in the early 1990s, we were just completing what was a very bipartisan effort by this committee. Well, maybe it was another committee, Senator Nunn's committee, Permanent Investigations Committee, at the time. It did a lot of good and made a big difference. The bill passed in 1992 to change things, and I spent my time and then Dick Reilly after me. This could be very productive. I would be glad to work with you on this in the same way we are working on the Elementary and Secondary Education Act, if you would like.

Right after World War II, 1944, the GI Bill gave veterans a voucher that they could spend anywhere to complete their education. Some went to high school. Some went to Catholic school. Some went to Jewish schools. Some went to Europe. Some went to the University of Tennessee. Some went to Iowa State. From that has come the current system of grants and loans that allow American college students to choose among about 6,000 autonomous institutions which most people think is the best system of higher education in the world.

I believe that keeping that choice, keeping that autonomy, and keeping the generous grants and loans are an essential part of it. I think that our 6,000 institutions are overregulated by grants and loans, and they usually are overregulated by concerns like this because we have bad actors who are stealing money and performing fraud. So we rush in with a new set of rules and pile up loans that stack up—I mean regulations that stack up this high.

My goal is that we find ways in this hearing to get rid of the bad actors, whether in for-profit or nonprofit, but not diminish the quality and the choices that come from overregulation.

I appreciate Secretary Duncan's effort on this. I thought his first efforts on dealing with it would have been like shooting quail with a cannon. You would miss the target and probably hit some innocent people, and I think he has come up with some pretty good suggestions.

We have 6,000, as I said, autonomous institutions in the country. 3,000 are for-profit; 3,000 are not. About 10 percent of the students go to for-profit institutions, and the graduation rates are much higher in the nonprofit institutions, the 6-year graduation rates, but in the 2-year programs, the for-profit sector has about a 60 percent graduation rate. The community colleges, the to-profit public universities or public universities are about a third of that, about 22 percent.

I am anxious to get into this, and I do not want the bad actors to be discrediting a good program, which is what we have. I welcome the Inspector General's work.

Is the 70 percent—you said you are investigating nonprofits—for-profits are 70 percent of your investigation. Since they are only a small part of the students, 10 percent, why are you not investigating more of the nonprofits? Because it seems to me that there is likely to be abuse there, or if there is not, we need to know there is not.

Ms. TIGHE. No, I understand that. We investigate based on complaints, by and large, that come to our hotline or come to us in some other ways through referral. Better or for worse, most of the complaints have come in the proprietary sector. Now, it may be—and one can speculate as to why that is—that students are paying large tuitions and want value for their money and get upset. That is where most of the complaints have come in. We do not traditionally sort of reach out to schools without a reason to do so.

Senator ALEXANDER. The Department of Education is about to become the sixth largest bank in the country based upon volume of student loans. It is going to be making $100 billion of loans a year because of changes in the law that I thought were ill-advised, but it is the law now. What is that going to do to the ability of the Department of Education to check on the integrity of those loans? Because formerly you had lots of other entities around the country who were responsible for that. Are you concerned that the Department of Education may not be prepared to do that, making whatever problem exists worse?

Ms. TIGHE. Well, I think it is something we are keeping a close eye on. You are right that the Department has a significant responsibility now. The guarantee agencies were a source of information for us and some level of oversight in some ways. That responsibility now rests with the Department. We are doing some audit work related to just the mechanics of the transition to the direct loan program, looking at contract issues and the systems capacity issues.

I think our one big area, if I were to label the biggest area of concern right now, is on whether they are going to be able to provide sufficient oversight over the contractors, the four new service providers. FSA has not had a good history of contract oversight, and I think that it is an area we are watching carefully.

Senator ALEXANDER. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Alexander.

Senator Brown.

STATEMENT OF SENATOR BROWN

Senator BROWN. Thank you, Mr. Chairman. Senator Enzi and Chairman Harkin, thank you for the really very important hearing.

I think that examining so many of these proprietary schools, especially those that are growing so rapidly, is the right thing to do. As Senator Franken's question suggests, the rapid growth of these for-profit institutions, compared to other institutions, is a particularly great concern and particularly sort of a risky proposition for taxpayers and for those students.

I would point out—and I know that others have done this—that the good proprietary schools that we all have in our States are so important. In my State, there is a 40-year-old institution called the Ohio Technical College that trained diesel mechanics. In its first year, it was called the Ohio Diesel Technical Institute at that time—and good-paying jobs and all of them found jobs when they graduated. DeVry Institute in Ohio is a different kind of institution but generally many of the same good graduation rates and good training of students and doing things generally the right way.

I want to go to comments in your written testimony, and I want to sort of explore where you are going with these when you see the especially rapid growth in some of these schools, again contrasted to other either for-profits or community colleges or whatever.

You wrote,

> The volume of Federal student aid dollars going to the publicly traded sector has seen tremendous growth in recent years. Over the years we have come to identify a relationship between rapid growth and failure to maintain administrative capability.

Talk that through. Administrative capability in terms, I assume, of accountability, in terms of maintaining coursework, all the kinds of things that that rapid growth would suggest in terms of administrative ability to manage it.

[The prepared statement of Senator Brown follows:]

PREPARED STATEMENT OF SENATOR BROWN

Today's hearing comes at a critical time.

The President has challenged the Nation to reach the goal of once again having the highest proportion of college graduates in the world by 2020.

With the American Recovery and Reinvestment Act and Health and Education Reconciliation Act, this Congress has made unprecedented investments in education and job training to revitalize our economy and make the 2020 goal a reality.

Americans have heeded the call. During this Great recession, they have gone back to school in record numbers.

While we need all hands on deck to create the educational capacity to meet our 2020 goal, we cannot lose sight of our obligation to protect students.

This is not about painting one sector of the higher education community with a broad brush. Career colleges have played an important role in expanding access to post-secondary education and training.

We have plenty of examples in Ohio.

Ohio Technical College, family-owned and operated for over 40 years, has provided high quality education in diesel engine repair in the Cleveland community. DeVry University has been a real partner to our public schools, offering dual enrollment opportunities to students in Columbus city schools. Graduates from career colleges across the State have offered testimonials as to how their career college education has helped them build better lives for themselves and their families.

For institutions whose primary mission is education, whether they are public, non-profit or for-profit, it is in their interest to safeguard the integrity of higher education and student financial aid programs.

We have received some warning signs.

Last year, the General Accountability Office reported that some institutions were falsifying ability to benefit tests and enrolling ineligible students. The Department of Education's Inspector General has pointed to concerns about the relationship between rapid growth and the failure to maintain administrative capability. Since 2004–2005, Federal student aid funding to the proprietary sector has grown by more than 109 percent—more than twice the rate for the other sectors.

There have been a series of reports in the national media about the for-profit higher education sector.

In April, Bloomberg reported on recruiting practices of some for-profit institutions at homeless shelters in Cleveland. In a push to boost their enrollment, some institutions marketed to our most vulnerable citizens. In the article one recruiter was quoted saying that borrowing by the homeless to pay tuition "is no different from a middle-class student who has to take out a loan."

Students in the for-profit sector borrow more than other students. They also default on their loans at much higher rates. Although students in the for-profit sector are only 9 percent of the overall student population, they account for 44 percent of the student loan defaults.

Unfortunately, students at for-profit institutions often borrow private loans in addition to Federal student loans. Some publicly traded companies have reported that they will write-off more than 50 percent of the private loans made to their students.

Students' inability to repay their student loan seems to have no negative impact on the bottom line of these higher education companies. Yet, for the student, the debt cannot even be discharged in bankruptcy. Once again, Wall Street profits, and Main Street pays the debt.

Our legislative and regulatory tools must be up to the task of protecting students and taxpayers in a rapidly growing and changing higher education environment. We do not want to stifle innovation or create barriers to access. But we cannot create a system where the incentives put enrollment growth and expansion of student aid revenues ahead of the educational quality and outcomes for students.

I would like to applaud the Department of Education's efforts to update its regulations regarding program integrity. But this committee has an important role to play too. Thank you Chairman Harkin for your leadership in launching this series of hearings.

I would like to thank the witnesses for joining us today. I am eager to hear your views about how we can strengthen our oversight in this area.

Ms. TIGHE. Yes. No, that is exactly right. A good example in our fairly recent work was a school called TUI, which is a very rapid-growth school. We went in and did essentially a review to look at how they were managing the title IV fund process in general. So we look at different aspects of it. The school, unfortunately was a—forget the issue of returning the title fund. They had not even gotten to the point of figuring out if students were still enrolled or not and were dispensing title IV money to students that were not even there. They were not really administrative-capable. They really were not doing anything very well. It is really sort of across-the-board issues that we find.

Senator BROWN. Were some of these students accumulating—these were typically grants. These were loans. Were students accumulating debt and not even still enrolled in the school?

Ms. TIGHE. Well, they were kids who had withdrawn from school I think in part, and the school had not figured out that they were not there. Or, in fact, I think there were some who had not enrolled to begin with, that had maybe quit before there was any coursework being done, and still they were getting money.

Senator BROWN. Were most of these grants or loans?

Ms. TIGHE. I think they were loans. I can check. Both grants and loans.

Senator BROWN. So what happens? Have you been able to trace what happens?

I go back to this. My wife was first in her family to go to college, graduated from Kent State University in Ohio, and had debt of less than $2,000. That was in the late 1970s. It was a different era and Government played a more significant role in many ways. She had no family money. It was all grants and loans, mostly grants and scholarships and all that, but more typical in those days of not accumulating that kind of debt.

To me the most tragic part—I do not know the most tragic part, whether it is all the dollars taxpayers put into this without the return that the GI Bill—for instance, one of America's great programs—had, or whether it is that these kids end up no longer in school without a diploma and have huge debt.

Have you examined the students at TUI or other places that have either not enrolled or not enrolled very long that have left that are still accumulating debt and what happens to them? Are you able to do that?

Ms. TIGHE. We have not looked—what we recommend when we find that situation is that—well, we recommend the loans be returned. To the extent they have gotten money and they are not in school, they should not be using the money. So they return the loans. That is, in the end, better for them. They are not going to be in the position of having to pay them back.

Senator BROWN. Are there examples where these students have left, they are continuing to—what happens with their debt? Is the school paying it back? Are they trying to pay it back?

Ms. TIGHE. If the student withdraws, if a student has a student loan and he withdraws and he is not in school any longer and has no deferment or forbearance, they are paying the loans back if they are no longer in school and do not have a reason like being in school or unemployment or whatever that would give them a deferment. So they are going to have to be paying the loans back.

TUI's problem was it just was not managing the title IV funds very well. I think we also recommended they pay the money back. They just were not doing what they needed to.

Senator BROWN. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Brown.

Senator Merkley.

STATEMENT OF SENATOR MERKLEY

Senator MERKLEY. Thank you very much, Mr. Chair, and thank you for your testimony.

I wanted to start with your written testimony, and you have made reference to this earlier. It notes that HEA has a ban on incentive compensation to recruiters, but due to safe harbors included in the current regulations, schools are shielded from administrative, civil, and criminal liability. Proprietary institutions are making full use of the safe harbors to provide financial incentives to drive enrollment.

I understand that when in 2002 the safe harbor was extended in this fashion, some folks warned that this would lead to abuses. You are finding those abuses. Can you describe an example of how that abuse manifests itself in the field?

Ms. TIGHE. Well, yes. I think what you see are some of the things I think that have been in the news of aggressive recruiting because that is what the incentive compensation rules were intended to— it is the homeless. I do not think we have personally gone out and seen schools recruiting the homeless, but that has certainly been in the news.

We do see aggressive recruiting, and when you are paid based on the number of students you bring in, then it leads to, I think, all sorts of abuses like that. You want to have students coming to schools that want to be there, that they know what they are getting in terms of an education, that they understand what the cost is going to be and they understand what they are going to get when they get out of it. To the extent that none of that information is being provided to students, which is certainly something we have seen, I think you are seeing a problem.

Senator MERKLEY. Thank you.

Let me turn next to the distance learning issues. Also in your written testimony, you note that institutions must be able to document attendance in at least one class during a payment period. Well, that seems like a pretty low standard: One class.

Then you go on to note:

> "The point at which a student progresses from on-line registration to actual on-line academic engagement or class attendance is not defined by institutions and is not defined by Federal statute or regulations."

There is a standard for which there is no definition and therefore you are basically unable to enforce it, even though it is such a tiny standard, one attendance.

Ms. TIGHE. Yes. It leads into some gray areas. We had a fairly recent audit involving Capella University where we went in and looked. They were essentially counting—it was an online environment, distance education environment, where they were essentially counting students' questions about the course as academic engagement. We disagree with that.

Senator MERKLEY. Inquiring about the course.

Ms. TIGHE. Yes.

Senator MERKLEY. Essentially we have aggressive recruiting, which may be any warm body, to get their name signed up. We will get you the aid, and so there is kind of no action. And then whether they ever attend or not is something hard to enforce as well.

OK, let me go on. As you look at different States, do you find that the rules that some States have, the laws that they have passed, result in lower levels of abuse, and if so, what insights are there for us at a Federal level?

Ms. TIGHE. Yes, I think States have passed laws. I do not know—we have not really done audit work to assess the State laws in this area. I think to the extent they have passed laws, it would be instructive to look at it, but we have not done work in that area.

Senator MERKLEY. Mr. Chair, that is something that I think would be very helpful. Oregon requires all schools that receive title IV money to enroll students only term by term, and that has resulted in a significant drop in abuse. I think strategies like that, that different States have employed, can be the State laboratories. I think it would be very helpful to bring those to bear on this discussion.

My time is wrapping up here, but when I think about the fact that you are pursuing these investigations and they are criminal investigations, how is it that some schools can be so comfortable with so many types of abuse? Do you have insufficient investigators? Is the safe harbor just too broad? Why are schools not doing what they should be doing, given that they are subject to potential investigations?

Ms. TIGHE. Well, you would like to think that our work should provide some deterrence value. That is one of the points of doing criminal investigations. Yes, you put the bad guys away, but it should provide a deterrence to other people. We hope it does, but we do not have anywhere near the resources to cover every school or even every proprietary institution. So we do what we can.

We are happy when the U.S. Attorney's Office publicizes the results of cases because I think that is a shot across the bow of other schools. We have to sort of rely on that mechanism, I think, to fully cover it because I do not think we will ever have the resources to do every case that comes our way.

Senator MERKLEY. Thank you.

The CHAIRMAN. Thank you, Senator Merkley.

Senator Bennet.

STATEMENT OF SENATOR BENNET

Senator BENNET. Thank you, Mr. Chairman. Thank you so much for holding this important hearing.

I believe the abiding concern of everybody on this committee and every committee of this Congress ought to be that we are at risk of being the first generation of Americans to leave less opportunity, not more, to our kids and our grandkids. I think that increasing affordable access to college, especially for low-income students, is one of the most critical investments we can make in our future, and we need to do it.

Between 1992 and 2002, we created 6 million new jobs that require a college degree and lost a half million jobs for people that have no high school diploma. Twenty-two of the thirty fastest-growing occupations will require a college degree between now and 2016, and just about 10 or 15 years ago, we led the world in the production of college graduates. Today we are about 15th in the world in the production of college graduates.

For-profit universities can play a constructive role in increasing access but we need to make sure that we are delivering on our promises to our students.

Ms. Tighe, I appreciate your testimony very much and the work that you have been doing.

I have looked at the proposed rules as well and think they are going to help with many of the concerns that I have heard in my State, while not limiting access for students. But this is not just about access. It is also about the quality of the education people are getting.

In your testimony, you described some of the problems you have identified in the accreditation process. I wonder what else we can do to ensure that accreditation is something that can drive quality or reassure us that students are actually receiving a quality education?

One issue I am aware of is when a proprietary school takes over a school with a regional accreditation, that accreditation applies to the new school. Can you talk about accreditation a little bit?

Ms. TIGHE. Well, yes. It is, I think, a very important process since really the Department of Education itself cannot get into quality of education. It is really up to the accrediting agencies to do their jobs well because they are the people who have to determine that in some fashion.

I think from our audit work and inspection work, it is clear that some accrediting agencies do better jobs than others.

Senator BENNET. Is there a means of giving that feedback back to the accrediting——

Ms. TIGHE. Yes, we have. In our latest round of reviews, we looked at three of the seven regional accrediting agencies, and they were the three who had the most title IV funding. That was how we picked them. For each of those, we actually gave them a report back with our recommendations for improvement or suggestions, I guess, because we do not know how much authority we have to make them listen to anything we have to say. But we did give them suggestions for improvement.

I will say we did another round of this in 2002. Actually one or two of those accrediting agencies we looked at back then and made some suggestions. They actually took a number of our suggestions and did make some improvements.

We found additional issues when we went back just last fall, but I think that we saw them take some steps in the right direction.

Senator BENNET. I had the experience working for the Denver public schools. The first round of online environment that charters and others provided turned out to be a disaster for everybody. The second round I think has been very effective because we were able to put some things in place to make sure that people were really getting quality. I think going forward both for K–12 and higher ed, online is going to be a very important part of the delivery system, a hugely important part.

Can you talk a little bit about how you think about the regulation of that environment in a way that does not stifle the very important online part of this universe?

Ms. TIGHE. Yes. I would not want to stifle it either. I think it is very useful.

I do think one of the big areas is one we talked about earlier, which is how can you show academic engagement. There are clearly some proprietary schools who do a much better job, for their online units or online schools, of tracking that students are actually academically engaged. They post homework. They take tests online. They do all the things that you do when you are actually going to school. Some do not do such a good job of that. Our efforts have been to sort of make recommendations for improvements in those areas.

Senator BENNET. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Bennet.

Senator Hagan.

STATEMENT OF SENATOR HAGAN

Senator HAGAN. Thank you, Mr. Chairman, and thank you for holding this hearing today and for all of the witnesses that are here to discuss this important topic.

An investment in higher education is an investment in our future, and as the for-profit education industry continues to rapidly grow and as the Federal Government continues to invest Federal dollars through title IV and the Department of Defense and VA, it is critical that we take a look at the practices of these institutions.

One of the things that I am concerned about—and I am not sure if you have the answer to this or not—is how much money is in default of these loans right now? Do we actually age these receivables and how much do we actually collect? Do you have any of that information?

Ms. TIGHE. Well, I think the default rate is an interesting question. I think that the Department needs to do a better job of figuring that out. Right now, the most publicized default rate is the cohort default rate we talked about earlier, which is a very limited perspective on defaults because all it does is take a base year of, say, 2003 and then calculate the next year. When the amendments go into effect fully, it will calculate the next 2 years.

In our audit work a few years ago, we actually recommended that they do a lifetime cohort default rate, which is, say, for a cohort base year of 2003, you go back each year and calculate all the defaults that resulted from people who went into repayment in that year. And I think you get a better view.

As part of the financial statements and a part of the credit reform process, the Department has to estimate defaults and they have to do some long-term estimating in order to calculate subsidy costs.

Our financial statement auditor has made, I think, some very good recommendations to the Department about how to factor in better information, since we are in a recession—recessionary information. You know, you do not just look at employment rate. Look at availability of credit. Look at the housing market. Look at some other things to factor in. Get a better picture of what default rates are.

Senator HAGAN. I am not really talking about the future default rates. I am talking about right now.

Ms. TIGHE. Right now? Yes. I do not know if I have that figure.
Senator HAGAN. If you could get that information for us.
Ms. TIGHE. Absolutely.
Senator HAGAN. OK, thank you.
That is all, Mr. Chairman. Thank you.
The CHAIRMAN. Thank you, Senator Hagan.

I am told that neither Senator Murray or Senator Sanders wish to ask any questions at this time. Ms. Tighe, thank you very much for being here, for your excellent testimony, and thank you for the work that the Inspector General's Office is doing.

Ms. TIGHE. Thank you very much, Mr. Chairman, Ranking Member Enzi.

The CHAIRMAN. Now we will call our second panel.

On the second panel we have Yasmine Issa, who completed a certificate program in ultrasound technology at Sanford-Brown Institute in White Plains, NY. I held up the Good Housekeeping magazine earlier. This is how we found Yasmine Issa because there is an article in the June 2010 Good Housekeeping magazine about Ms. Issa and about the for-profit schools.

After Yasmine, we will hear from Margaret Reiter, who worked for 20 years as a consumer prosecutor with the California Attorney General's Consumer Law Section. Ms. Reiter served as the supervising California Deputy Attorney General during the agency's suit against Corinthian Colleges, Incorporated.

The next witness is Sharon Thomas Parrott, Senior Vice President, Government and Regulatory Affairs and Chief Compliance Officer at DeVry, Incorporated. Ms. Parrott came to DeVry in 1982 and previously worked at the U.S. Department of Education in student financial aid and as a training specialist.

Last we have Mr. Steve Eisman, Senior Portfolio Manager, FrontPoint Financial Services Funds in New York City. Mr. Eisman was featured in Michael Lewis' best seller, The Big Short, which I read, for his foresight into problems in the subprime mortgage industry. He has extensive experience analyzing companies over the last 2 decades.

Again, we welcome you all here. As I said earlier, your statements will be made a part of the record in their entirety. We will just go from left to right. If you could sum up in 5, 6, 7, 8 minutes—I will not be hard and fast on 5 minutes, but if you can sum up your testimonies, we would certainly appreciate it.

Ms. Issa, we will start with you. I briefly introduced you as the featured person in this Good Housekeeping magazine article. I understand you are from Yonkers, NY, the mother of twin daughters, and your story is a very compelling one that I read about in the magazine. Welcome to the committee and please tell us your story.

STATEMENT OF YASMINE ISSA, FORMER SANFORD-BROWN INSTITUTE STUDENT, YONKERS, NY

Ms. ISSA. Thank you for inviting me today. My name is Yasmine Issa.

I thought that going to school to learn a marketable skill would allow me to provide for my family. Instead, it has left me more than $20,000 in debt and unable to be hired in the field I trained for.

In 2005, I was 24 years old and recently divorced with 3-year-old twin girls. I needed a good job in order to support myself and the twins, but I had been a stay-at-home mom up to the point and I did not have a college degree or any professional training. My aunt works in the radiology department at a hospital and told me that was a promising and rewarding path. So I started looking on-line for ultrasound schools.

I found a Sanford-Brown Institute in White Plains near my home in Yonkers, NY, and went to the campus and spoke with a school representative. The first day I went to visit, I was told to take an entrance exam, which I passed. They said I needed at least 32 college credits to enter the program and I already had 59 credits from when I attended Manhattanville College for 2 years. That was not a problem.

The program was 12 months of accelerated classes plus a 6-month internship in a doctor's office and/or hospital. The recruiters explained that I could sit for the certification exam by either having a bachelor's degree or working full-time for 1 year as an ultrasound sonographer. They made it sound so easy, and they assured me I would have no problem finding a job to meet this requirement as soon as I completed the program. They said that career services at the school would not stop until I had a position. Their job placement services sounded really helpful, so it seemed like a sure thing.

The recruiters kept calling me and pressuring me to sign up for the program. They said that the seats were filling fast and the registration deadline was just days away. With a family to take care of, I did not have time to waste being unemployed and I needed skills. I decided to enroll and I was very excited about my new career.

The program cost me a little over $32,000. I paid for a lot of the costs with savings and child support, but I also had to take out $15,000 in Federal student loans through Sallie Mae. Using some of the child support money that I received for my daughters was the only way I could pay for school, but I believed going back to school and getting trained would yield a good return on my investment.

After a lot of hard work, I completed the program in June 2008. I began looking for a job aggressively, applying for every ultrasound job in the tri-state area. I posted my resume on Monster.com and other job-hunting Web sites. In the beginning, I would call to check in with Michelle Rawlins, the lady in charge of job placement at Sanford-Brown. I told her where I applied and asked her if there was anything else I should do. She told me to keep looking and check in with her every week. She said she would fax my resume to any job openings she was aware of. She sent one or two e-mails to my entire class with job openings, and I applied for those as well. Overall, career services did not end up being very helpful at all.

After a few months, I was getting the same answers everywhere I went. The hospitals and doctors' offices all wanted one of two requirements: either for the ultrasound tech to be certified by the American Registry for Diagnostic Medical Sonographers or to have 2 to 5 years of experience working as an ultrasound tech. I could not sit for the registry's exam until I had experience, and I could not get real experience without being certified.

The more I did not use my ultrasound skills, the more I was losing the skills. I asked Michelle Rawlins if I could get another internship in a hospital to keep up my skills and better my chances of being hired there. She transferred me to the dean of the school who sounded sympathetic but never followed up or returned my calls. I tried in all kinds of ways to get help from Sanford-Brown, but they avoided me and had nothing to offer.

When I visited a hospital in New Jersey, the supervising ultrasound tech informed me that if I had attended an accredited school, I would have been able to sit for the registry exam immediately after graduating. This was how I found out that Sanford-Brown Institute's ultrasound program was not accredited. The school as a whole is accredited but their ultrasound program is not. I could not believe it.

I looked on the ARDMS Web site and found that Bergen Community College in New Jersey offers an accredited ultrasound program for about half what I paid Sanford-Brown. I called to see if I could take a few more ultrasound courses through Bergen so I could qualify to sit for the registry exam. I was told no because my credits would not transfer.

I never felt so alone in my life. Five months after finishing the program, I had no prospects for employment but still had a family to take care of, rent, bills, and now the outstanding student loans. I was depressed. I felt like I wasted my time and money on a phony school and fell for their false promises.

I went online to see if there were any complaints about Sanford-Brown and found several from students in New York and across the United States. Their stories were, if not exactly the same, very similar to mine. They all felt like victims of a scam, just like I did.

It has now been 2 years since I completed the program and the interest on my unpaid loans is growing. I currently owe a little over $21,000, including about $4,000 from my 2 years of college. The closest I have come to a real ultrasound job was the 2 months when I worked as a temp for a private doctor while his ultrasound tech was on vacation. It is hard to find any work without a marketable skill, but going to Sanford-Brown to get one has left my family and me worse off than if I had never gone back to school.

Thank you.

The CHAIRMAN. Ms. Issa, thank you very much for being here and for telling us your story. I think this is what we have got to hear, what is happening to young people like you.

Now we will turn to Margaret Reiter. Ms. Reiter, again, please proceed.

STATEMENT OF MARGARET REITER, FORMER SUPERVISING DEPUTY ATTORNEY GENERAL, OFFICE OF THE ATTORNEY GENERAL, CALIFORNIA DEPARTMENT OF JUSTICE, SAN FRANCISCO, CA

Ms. REITER. Thank you, Chairman Harkin, Ranking Member Enzi, and distinguished members of the committee.

As the Chairman mentioned, I worked as a prosecutor in the Consumer Law Section at the California Attorney General's Office

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for 20 years. Before that, I was an investigator in consumer matters for 4 years, and I recently served as the primary negotiator in the department's negotiated rulemaking on program integrity as the negotiator for consumer interests.

Among the many types of consumer fraud cases I have prosecuted or supervised others in prosecuting, a number of them have been against proprietary schools. Based on my knowledge of investigations and cases against proprietary schools over the years, including the ones I have been involved in and others that I am aware of, and based on my experience in investigating different types of consumer fraud, in my opinion the consumer abuses in the proprietary school industry are among the most persistent, egregious, and widespread of any I have seen. The schools now are larger, richer, more likely to be publicly traded, and the students likely to wind up with much larger debts than when I first prosecuted proprietary schools in the late 1980s, but the abuses are strikingly similar.

I just want to give a few highlights from my written testimony about the case that we settled in 2007 against one of the largest publicly traded, for-profit schools. I think the case is representative of some of the problems in the industry today. Although it settled, so there was no judgment, the information I am providing is based entirely on either the company's own statements, public statements, or sworn testimony or sworn declarations of its former employees, of students, and of hundreds, literally hundreds, of declarations we got from employers where the school claimed that their students had found employment after graduation and that they had found that employment within 6 months of leaving school, had been employed for at least 60 days for at least 32 hours a week, which was the standard definition of employment in California at that time.

Our investigation focused almost entirely on the oral representations and the written required disclosures about job placement and salaries of the school's graduates. The evidence showed that whichever way we looked and whatever we looked at, the evidence was the same, that the claimed placement rates and the claimed salaries were inflated.

The school's advertising primarily reached people through TV, radio ads, ads in the unemployment offices, and touted the life-changing career training that was being offered that is highly valued by employers. The school's statements said that they were committed to helping students find a job. Many of them are students who are women. About half of them were minorities according to the students. In fact, a regional director was telling her staff that she should target low-income Hispanic students and even telling people to talk to the employees when they went through drive-in fast food places to try to recruit students.

When the students contacted schools, the admissions counselors used inflated job and salary claims. We checked in this way with nine secret shoppers who went to the schools asking about enrolling in the school. These undercover or secret shopper investigations went on over a 2-year period and we went to six different locations of this school across California.

In one instance, as an example, the secret shopper was told that about 85 percent of the students who graduate in the medical administrative assistant program get jobs. However, the school's written disclosures, which were required at that time to prepare under California law, showed that only 50 percent of them in the 2 years preceding and only 60 percent in the year before had actually gotten jobs instead of the 85 percent claimed.

There are other examples—I could go on with that—of the oral disclosures.

There were also oral disclosures about salaries that were inflated. One of our secret shoppers, for example, was told that the starting salary for medical billers was about $18 an hour, around $37,000 a year, but the school's own written disclosure form showed that of the 19 graduates in that program from the year before, 16 of them earned between approximately $14,000 and $26,000, not $37,000.

As I mentioned, the schools at that time were required to provide both oral and written statements to consumers about what the job placement rates were. We found that either they did not give them, or they denigrated them. They said they were out of date, and so in many instances, they did not get either the oral or the written disclosures that were accurate according to the school's own records.

Most surprising I think—maybe not so much surprising, but astounding to us was that when we then looked at the school's written records that they used to declare these are our accurate placement and salary information, we then went out and got declarations from the employers and we found that in fact their employment and their salary disclosures were inflated even in the school's prepared written statements and disclosures of what their placements were.

For example, in the sonographer program, in the written disclosure the school had said their placement rate was 80 percent. We found it was really 43 percent or lower.

In the dental assistant, they said 73 percent. We found it was really 51 percent or lower.

In the business office assistant program, they said 72 percent. We found it was really 57 percent.

In most courses, only 30 percent to 52 percent of the graduates obtained employment, according to the evidence that we gathered.

While we concentrated on employment and salaries, we also stumbled across other information of wrongdoing, the school referring students who needed to have a high school diploma to a place where they could buy one. Also some of our secret shoppers were encouraged to lie about their income so they could qualify for financial aid. This kind of thing was also corroborated by declarations or testimony from former employees as well.

The massive evidence we gathered I think shows that the problems were systemic, that this is a problem where the school is exploiting people's need and desire for well-paid and secure jobs, and routinely lying to students in order to get as many students to enroll as possible.

I am happy to take questions. Thank you for this opportunity.

[The prepared statement of Ms. Reiter follows:]

PREPARED STATEMENT OF MARGARET REITER

I worked as a Deputy Attorney General, then a Supervising Deputy Attorney General in the Consumer Law Section of the California Attorney General's Office for 20 years, until I retired at the end of 2008. The first cases I prosecuted in the late 1980s and early 1990s and one of the last prosecutions I supervised before I left were against post-secondary proprietary schools for unfair, unlawful, and fraudulent business practices and untrue and misleading advertising. The main difference between the 1990s and now is that for-profit schools now are more likely to be publicly traded, be larger and richer, and have much greater political clout, and the students wind up with much larger debts, including high cost private loans. In contrast, the abuses remain strikingly similar.

By the mid-1990s, I thought, naively it turns out, that we had turned the corner on fraud and abuse in the proprietary school industry. The AG had brought several successful cases against proprietary schools, California had established a strong State law (which required, among other provisions, a 100 percent pro-rata refund policy, and completion by 60 percent of students and job placement of at least 70 percent of graduates), the newly established independent California agency to oversee proprietary schools moved aggressively to police the area (putting 159 schools out of business by 1995 [California Post-Secondary Education Commission, Effectiveness of California's oversight of Private Post-Secondary and Vocational Education, 10/1995]) the Federal student loan provisions had been tightened up (including by requiring at least 15 percent of a school's revenues to come from other than Federal student aid and instituting cohort default rate criteria), and the Inspector General's Office of the Department of Education had become more active in enforcement. So for a number of years, the Consumer Law Section, which handles all types of consumer fraud cases, switched focus from proprietary schools to other types of the businesses.

By the late 1990s reports of abuse in the proprietary school sector again began to rise By the mid-2000s, continuing reports of rising amounts of fraud and abuse among proprietary schools again focused our attention on this area. By then, the strong independent California oversight agency had been eliminated. Federal safeguards had been watered down (including the requirement for 15 percent of revenues to come from other than Federal aid was reduced to 10 percent, the cohort default provisions were weakened, and the prohibition on incentive compensation for recruitment had been regulated into a number of large loopholes. Meanwhile, many more proprietary schools had become large, publicly traded entities with dozens of locations around the State. Once again the California Attorney General's Office, under Attorney General Lockyer began an investigation into proprietary schools.

My testimony primarily summarizes the case developed against one large publicly traded proprietary college that resulted in entry of a stipulated judgment in 2007. A stipulated judgment means the matter did not come to trial, there was no judicial determination of liability, and the school did not admit any wrongdoing, but did agree to the terms of the judgment. The following is a summary of the allegations of the complaint, evidence that was to have been used to obtain a preliminary order enjoining certain unlawful conduct if there had not been a settlement, and the terms of the judgment.

SUMMARY OF ALLEGATIONS IN THE COMPLAINT

The complaint alleged Corinthian Schools, Inc., a subsidiary of Corinthian Colleges, Inc. (and a related corporation) offers vocational programs at approximately 14 schools—in California. It alleged the programs offered typically last from 6 to 13 months, for which the school typically charges $7,000 to $15,000, with some longer courses costing as much as $27,000. The complaint alleged that the vast majority of students enrolled pay for those high cost courses through financing that the school offers or arranges via government grants, government-subsidized loans, high-cost private loans and the school's own credit programs. The complaint also alleged students who are unable to obtain a good-paying job in the field they studied may be saddled with the debt and the negative consequences of that debt for years to come, because, with a few limited exceptions, student loan debt is not dischargeable in bankruptcy.

The complaint alleged the school engages in a persistent pattern of unlawful conduct; that the school's own records for many courses show that a substantial percentage of students do not complete the programs and, of those who complete the program, a large majority do not successfully obtain employment within 6 months after completing the course; and that the percentages of former students the school's documents claim successfully obtained employment are inflated. The complaint also alleged that in some instances, the school's records even list non-existent businesses as the students' places of employment; and the salaries the school's records claim its former students earn are also often incorrect and inflated. The complaint also alleged the school places intense pressure on its staff, particularly on those who recruit students and those who supervise them, to meet a pre-set quota of "starts." The complaint alleged that means the employees are to enroll at least a certain number of students who stay in school beyond the 5-day period during which students may withdraw from school and obtain a full refund under the California Education Code in effect at the time. The complaint alleged the school uses various untrue and misleading statements to induce students to enroll and not cancel, despite the poor chances of success, and engages in other unfair, unlawful or fraudulent business acts and practices.

SUMMARY OF EVIDENCE RE: REPRESENTATIONS ABOUT JOB PLACEMENT AND SALARIES

The Attorney General's Office gathered evidence to support the allegations in the complaint and to support an application for a temporary restraining order and preliminary injunction against the school. Any evidence gathered to support the allegations of the complaint, but not needed to support the request to enjoin certain conduct during the pendency of the action is not included in the summary that follows. The evidence summarized here includes statements from the school's own records or its public statements, and oral testimony and written declarations given under oath. The evidence consists primarily of hundreds of sworn written declarations from employers where the school claimed its graduates obtained employment, but also includes declarations or testimony from former students, former employees and secret shoppers. This section summarizes that evidence:

Students Solicited With Ads About Job Training and Careers

In 2005, the school enrolled at least 11,350 students in its schools in California in various vocational programs. The school admits its students are not the typical college-bound high school students who spend months and years choosing their college and carefully planning their future careers.[1] Instead, its students, the majority of whom are women, over 21 years of age, and minorities, enroll after seeing or hearing an advertisement on television, radio, or posted in an unemployment office, that promises quick and easy job training for lucrative careers.[2] The school's students typically invest in an expensive education at this school for one primary reason—to obtain skills that will lead to a job that pays more than minimum wage and therefore leads to a better life for themselves and their families.[3]

The school's advertisements focus on students' employment-related motivation. The school's printed advertisements promise "[l]ife changing career training," "education and training you'll need to accomplish your career goals," and the "education you need to build a successful career for years to come."[4] Similar statements include:

• Our education is recognized and valued by employers, and so are our graduates. We are dedicated to helping people change their careers and their lives.

• [Our] College has helped thousands of students train for a new career and build a better life. We are dedicated to helping you succeed. This means that in addition to providing you with career education and training, we're also committed to helping you find a job that's right for you.[5]

Written Employment Disclosures Then Required by California Law Inflated or Falsified

Under the then-current law, schools could count a student as having obtained employment if they could document that the student was employed: (1) within 6

[1] See Statement of David. G. Moore, CEO, Corinthian Colleges, Inc., before the Committee on Education and the Workforce, U.S. House of Representatives, Serial No. 108–63 (June 16, 2004) ("Moore Statement") at p. 33.

[2] *Id.* at p. 36 ["Of our 66,000 students, approximately 73 percent are female, 70 percent are over 21 years of age, and about one-half are minorities"] and p. 39 [60 percent of students at Bryman College, San Bernadino, are Hispanic and African-American; "about half" of the students at Bryman College, Anaheim, are Hispanic or "other minorities"]; see also transcript of the telephonic deposition of [Former employee] at PP. 34–35 [one of Corinthian's regional directors of admissions told a new director of admissions for the Reseda campus that her admissions representatives should "[t]arget [recruitment efforts] towards low-end Hispanic students," including by talking to McDonald's employees while using the drive-thru window]; Declarations of Students ("Student Decls.") TMB [student enrolled after seeing Defendants' ad in unemployment office].

[3] See, e.g., Declaration of EH at ¶7; Student Declarations TMB, SG, MB and BC.

[4] Declaration of RH Ex. 2; Declaration of SR Ex. 5.

[5] Declaration of IS Exs. 9, 29.

months after completing the program; (2) for at least 32 hours per week for a period of at least 60 days; (3) "in the occupations or job titles to which the program was represented to lead," and a student who worked less than 32 hours per week if the student completed a handwritten statement "at the beginning of the program and at the end of the program which states that the student's educational objective is part-time employment."

The Attorney General compared the school's records for certain courses offered in Alhambra, West Los Angeles ("West L.A."), and San Jose schools for 2003 and 2004. Hundreds of declarations by former students and employers listed in those records,[6] contradicted the information contained in the school's records.[7]

The discrepancies between the school's records and the evidence the AG obtained is calculated in the following charts, showing the school inflated the percentage of its students who obtained employment by at least 2 to 37 percentage points. The chart also shows that for many programs, the school did not meet the then-mandated State placement rate of 70 percent.

Alhambra 2003	Defs.' Reps. to Students [In percent]	People's Evidence [In percent]	San Jose 2003	Defs.' Reps. to Students [In percent]	People's Evidence [In percent]	West L.A. 2003	Defs.' Reps. to Students [In percent]	People's Evidence [In percent]
Business Office Asst.	72	57	Dental Asst.	68	59	Bus. Mgmt. Asst.	79	60
Business Office Mgmt.	72	65	Med. Asst.	50	44	Dental Asst.	73	51
Dental Asst.	73	53	....			Diagnostic Med. Sonographer.	80	43
Medical Admin. Asst.	56	51	....			Echocardiographer.	63	40
Medical Asst.	60	52	....			Medical Asst.	45	39
Medical Billing & Coding.	66	51	....			Medical Billing & Coding.	38	36
						X-Ray Tech.	46	43

Alhambra 2004	Defs.' Reps. to Students [In percent]	People's Evidence [In percent]	San Jose 2004	Defs.' Reps. to Students [In percent]	People's Evidence [In percent]	West L.A. 2004	Defs.' Reps. to Students [In percent]	People's Evidence [In percent]
Medical Asst.	53	48	Med. Asst.	36	30	Med. Asst.	47	40
Medical Billing & Coding.	42	34						

Under the law in existence then, different reporting criteria applied to some courses, such as massage. Schools could count students who "secure employment in the field for which they were trained."

As with the above programs, students and employers listed in the school's records for the massage therapy courses provided declarations that contradicted information

[6] Declarations of Employers ("Employer Decls."); Student Decls.

[7] For the purposes of comparing the employment percentages based on this evidence to the employment percentages disclosed by the school, the AG counted only two groups of students who completed their programs as not having obtained employment: (1) students the school stated did not meet one or more of the criteria of Education Code sections; and (2) students or employers from whom the Attorney General obtained a declaration showing that the students' employment did not meet one or more of the required criteria. If the AG was unable to locate the student and/or employer to verify the information the school reported, for purposes of comparison, the AG assumed that the student had been employed as the school reported.

The school excluded from its calculations students who decided not to obtain employment and within 6 months of completing the program enrolled in a program to continue their education. Although the school should not have used that exclusion for its calculation under the applicable California law, the AG did not add those students back in for purposes of this comparison. If he had, the percentages would have been even lower.

in the school's records.[8] For purposes of comparing the school's records with student and employer declarations showing whether massage therapy students obtained employment, the Attorney General counted as not having obtained employment (1) students that the school admitted did not work as massage therapists; (2) students that the school admitted worked fewer than 10 hours per week or 40 days total; (3) students who the school showed started employment more than 6 months after finishing their courses; and (4) students for whom declarations from the students or employers the school identified that showed the students never worked as massage therapists, were employed fewer than 10 hours per week or 40 days total, or who did not start their employment within 6 months of completing their massage therapy programs. Those the AG was unable to locate to verify employment, were assumed, for comparison purposes, to have secured employment.

For all three massage therapy programs, the school consistently reported students as being employed at non-existent, fake businesses that the students invented as part of a class assignment in order to learn how to make business cards.[9] The school's required disclosures gave an inflated count of the employment percentages for all three programs checked, the difference ranging from at least 14 to 28 percentage points.

San Jose 2004	Defs.' Reps. to Students [In percent]	People's Evidence [In percent]	West L.A. 2003	Defs.' Reps. to Students [In percent]	People's Evidence [In percent]	West L.A. 2004	Defs.' Reps. to Students [In percent]	People's Evidence [In percent]
Massage Therapy	68	40	Massage Therapy.	89	66	Massage Therapy.	57	43

In summary, for every single program for which the AG contacted students and/or employers, the employment percentages that the school reported on the written disclosures required by California law were inflated, by up to 37 percent. In most courses, only 30 percent to 52 percent of graduates obtained employment. Ten of nineteen programs had placements rates of less than 50 percent; 15 had placement rates of less than 55 percent.

Required Disclosures About Salaries Graduates May Earn Are Inflated or False

The school also makes both express and implied claims regarding the salaries of their graduates. The school's brochures are laced with statements like, "Top Ten Reasons for an Education . . . 1. To make more money;" and

> Why pursue an education beyond high school? Return on investment . . . The time and money you invest in your education can deliver benefits once you graduate. In many cases, the increased earnings after only 1 year will justify the cost of a student's education. A $5.00 wage increase per hour equals an extra $10,000 per year.[10]

The school tells potential students how much they can expect to earn after graduating.[11] In addition, the school makes implied claims regarding the future salary potential of enrolling students. For example, while discussing financial aid, the school told RF that she would make "way more than $9,000 [tuition cost]" in her job as a medical biller and that she would earn "more than triple" that amount.[12]

Because the school makes such claims, it was required under California law to disclose its students' starting salaries. Because its salary disclosures are based on the same records provided as to students who completed the programs and many of those students did not meet the employment criteria or were not employed as the school reported, its statements about the salaries earned were also inflated or untrue.

Oral Job Placement Claims Falsely Higher Than Even the School's Own Inflated or False Written Job Placement Disclosures

Over the course of 2 years, nine secret shoppers, posing as potential students at six different school locations received false or misleading information that concealed or contradicted the school's written disclosures about employment success, as well

[8] Employers Decls.; Student Decls.
[9] See, e.g., Student Decls., nos. 2600, 2608; nos. 2874, 2891, 2907, 2919, 2930, 2938, 2943.
[10] Declaration of JT, Ex. 16; IS Decl., Ex. 8; and Declaration CT Ex. 6.
[11] See, e.g., ML Decl. at ¶¶21–24 [Defendants stated that potential student could earn between $11 and $18 per hour after completing medical assisting program].
[12] Declaration of RF at ¶18.

as the salaries, of their students. Those experiences are corroborated by declarations from former employees and students.

In May 2006, for example, at the school's San Jose campus, the school told PW that the employment percentage for massage therapy "right now" is "closer to 80 percent" for its graduates.[13] According to the written disclosures provided, however, only 68 percent of San Jose massage therapy students scheduled to graduate in 2004 found employment (compared to a worse rate of 63 percent in 2005). Similarly,

- In October 2006, the school told CT that "about 85 percent" of students who graduate from the medical administrative assistant program get jobs.[14] The school's written disclosures stated, however, that only 50 percent of medical administrative assistant graduates in 2004, and 60 percent in 2005, had obtained employment.
- In October 2006, the school told ML that the Reseda campus graduates had achieved an employment rate of 90.1 percent.[15] The school's written disclosures for the program in which ML had indicated an interest, medical assisting, stated that only 54 percent of medical assisting graduates in 2004, and 63 percent in 2005, had found employment. According to the school's disclosures, the aggregate employment rate for all Reseda graduates was 62 percent in 2004 and 65 percent in 2005, not 90.1 percent.
- In January 2006, the school told RF that 51 percent of the medical billing program graduates at the West L.A. campus found employment, while the written disclosures stated that 33 percent of 2004 medical billing graduates found employment.[16]
- In August 2005, the school told JT that their accrediting agency "holds us to certain guidelines for our students" including "placing at least 69 percent of the students in the position that they went to school for." [17] The school's written disclosures for the program in which he stated an interest in medical assisting, stated that only 60 percent of medical assisting graduates in 2003, and 54 percent in 2004, had found employment.[18]

A former director of admissions at the Reseda campus who supervised the admissions representatives reported that, in every single interview that she witnessed, admissions representatives told potential students that the Reseda campus had "an extremely high placement rate" of between "85 and 90 percent . . . in qualified jobs," regardless of the program the potential students were interested in, or enrolling in.[19] Even as a supervisor of these admissions representatives, she never witnessed any of them orally disclose the actual employment percentages for the program in which the student was enrolling.[20]

The school also tells potential students to disregard disclosures because they are purportedly outdated and the "current" employment percentages of graduates are higher. In October 2006, for example, the school told IS that the 2004 employment percentage for pharmacy technician program graduates at the San Francisco campus, the disclosure the school was required by law to make, was outdated. The school told her that the more accurate rate was 54 percent for that year to date.[21] The school's written disclosures for this pharmacy technician program, however, stated that only 40 percent of pharmacy technician graduates in 2004, and 43 percent of pharmacy technician graduates in 2005, had found employment. A former director of education reported seeing the same practice at the San Jose campus.[22]

The school also provided older, outdated employment disclosures, rather than more recent disclosures stating lower employment percentages. In September 2006, for example, the school gave RH written employment disclosures for 2001 graduates and orally stated that the form was correct that "80 percent" of "medical dental billing" graduates at the Alhambra campus found jobs.[23] The school's more recent disclosures, however, stated that only 53 percent of medical assisting graduates in 2004 had found employment.

The school also overstated the likelihood that a potential student would obtain a job, in light of the employment percentages of the school's graduates. The school told JT that there's "no way that you can't" get a job unless you "just bombed at school"

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[13] PW Decl. at ¶10.
[14] CT Decl. at ¶20.
[15] ML Decl. at ¶18.
[16] RF Decl. at ¶31.
[17] JT Decl. at ¶7.
[18] PW Decl., Ex. 4.
[19] * Decl., Ex. 27 at p. 110.
[20] *Id.* at p. 118.
[21] IS Decl. at ¶¶25, 26.
[22] Declaration of MJ at ¶18.
[23] RH Decl. at ¶13, Ex. 3.

and that this happened to less than 5 percent of the school's students.[24] Yet, as set forth above, the employment rate for 2004 graduates of the program in which JT was interested was 54 percent. Similarly, the school's admission representative told SR that the school is "like the UCLA of vocational schools" and that, although he could not guarantee it, as long as she did well at school she would not have "any problem getting a job."[25] According to the school's written disclosures, however, the employment rate for 2004 West L.A. graduates from the medical assistant program was only 47 percent.

Required Job Placement Disclosures Not Made

The school either did not provide, or denigrated the employment disclosures then required by California law. In seven of eight secret shopper visits in which an oral disclosure was then required by California law, the school failed to disclose orally the employment statistics stated on their written disclosures.[26] In the one remaining visit, although the school orally disclosed the employment rate reflected on the disclosure, this disclosure was undermined by a statement that the rates were "out-of-date" and that the potential student would be enrolling in a program with a higher employment rate.[27]

The school did not provide the required written disclosures in the three visits of CT, ML and even KM, who actually enrolled.[28] With respect to the other six secret shopper visits, the written disclosures were undermined and/or contradicted in various ways. The school did not provide the disclosures to PW, SR, or RH until they enrolled during their second visits and only after the school had orally represented false and inflated employment rates.[29] Similarly, although the school provided the written employment disclosure to IT on his first visit, it did so only after it had orally represented false and inflated employment statistics.[30] In none of these cases did the school point out the disclosures to correct the false information previously provided. Finally, with respect to IS and RF, although the school may have asked them to sign the written disclosure on the second visit, it did not provide them with a copy.[31]

And, each time one of the secret shoppers enrolled, the school rushed them through the signing of the employment disclosures, without affording them time to review them as required by law. A former director of admissions routinely saw a similar practice at the Reseda campus, where the admissions representative downplayed or concealed the significance of the employment disclosure by including it in a large stack of documents and saying, "just go ahead and sign this."[32] She never witnessed a single admissions representative actually explain the employment disclosure.[33]

Oral Misrepresentations About Salaries That Can Be Earned; Concealment of Salary Information About Graduates

The school told JT and RH, who visited the Alhambra campus in 2005 and indicated an interest in the medical assisting program, that they could earn salaries that were higher than the salaries the school's written records showed its graduates earning. Referring to *www.salary.com*, the school told JT that he could earn an average salary of $31,000 per year and told RH that he could earn $29,000 per year and even had the potential to earn $72,000 per year.[34] The school gave JT a printout from the Web site containing this information, yet never provided him with or showed him a copy of its own salary disclosures.[35] According to the school's own written disclosures, the vast majority (34 out of 47) of 2003 Alhambra medical assisting graduates who obtained employment earned between $14,412 and $22,200 per year.[36] Only 2 of the school's graduates were reported as earning $29,000 or more per year.[37] In addition, the school reported only one 2004 graduate as earning

[24] JT Decl. at ¶ 19.
[25] SR Decl. at ¶¶ 10, 11.
[26] See RF Decl.; RH Decl.; ML Decl.; Declaration KM; JT Decl.; SR Decl.; and CT Decl.
[27] IS Decl. at ¶¶ 25, 26.
[28] See CT Decl.; ML Decl.; KM Decl.
[29] PW Decl. at ¶¶ 10, 36; SR Decl. at ¶¶ 11, 25; RH Decl. at ¶¶ 13, 45.
[30] JT Decl. at ¶¶ 7, 15
[31] IS Decl. at ¶¶ 25, 26; RF Decl. at ¶¶ 14, 29, 31.
[32] *Decl., Ex. 27 at p. 114.
[33] *Ibid.*
[34] JT Decl. at ¶¶ 13, 18; RH Decl. at ¶¶ 18–21.
[35] JT Decl., Ex. 5.
[36] * Decl.; RH Decl., Ex. 34.
[37] * Decl.

$28,800 or more per year, while it reported 176 out of 188 medical assisting graduates from 2004 earning between $12,012 and $21,600 per year.[38]

The school engaged in similar tactics in the 6 other secret shopper visits:

- When, in September 2006, IS asked what salary she could expect to earn on graduation, the school told her to check *www.salary.com*; although the school asked her to sign a number of documents on her second visit, which included a written salary disclosure, the school did not give her a copy of the written disclosure.[39]
- In July 2006, the school showed KM a Web site regarding salaries and stated that she could earn a salary of $35,000 a year as a medical assistant, and that there were even some graduates making $38,000 a year; the school never provided her with a written or oral salary disclosure for that program for the campus she visited, the San Jose campus.[40]
- In January 2006, the school told RF that the Web site "monster.com" lists starting pay for medical billers as $18.00 per hour (approximately $37,000 per year); although the school had her sign a written salary disclosure, the school did not give her a copy of it and never orally disclosed the information on it.[40] According to written salary disclosures for the West L.A. campus, 16 of 19 medical billing graduates from 2004 earned between $14,412 and $26,400 per year, while only 3 earned more than $28,812 per year.[41]
- In October 2006, the school told ML that she could earn between $11.00 and $18.00 per hour (approximately $22,800 to $37,000 per year) after completing the medical assisting program at the Reseda campus. The school also stated that she could earn her tuition of $13,000 back in 4 to 5 months (total earnings of $52,000 to $65,000). The school did not provide her with the required oral or written salary disclosures.[42]
- In May 2006, although the school showed PW a "fact sheet" with information about salaries on his second visit, they did not provide him with a copy.[43]
- Finally, although the school implied that CT could increase his earnings by enrolling, the school never provided him with any salary disclosures, oral or written.[44]

These practices are corroborated by the testimony of two former employees. A former director of education at the San Jose campus witnessed admissions representatives quoting salary ranges to potential students, even though these ranges were not paid to the school's graduates according to its own data.[45] A former director of admissions from the Reseda campus witnessed admissions representatives engage in a practice of providing the salary disclosures in a large packet of documents to be signed, with statements like, "You know how all this paperwork is. Just sign all these. And, you know, they're not for money or anything, so don't worry about it."[46]

Other Unlawful Business Practices

The school also has referred students who do not have high school diplomas to a business that provides fake diplomas for a fee. When ML, for example, indicated an interest in enrolling in a program for which the school required a high school diploma, the school told her that they could refer her to a business where she could get a high school diploma by paying $250.00 and attending only one day of class.[47] A former director of admissions for this same campus similarly testified that the school referred potential students who did not have high school diplomas to a business called "Victory," where they could get a diploma in 1 week by paying $400.00, a practice about which the regional director of admissions and other corporate-level employees were aware.[48]

With three different secret shoppers at two different campuses, the school encouraged JT, RH and SR to lie about their incomes, or told them how much income they should report on their applications.[49] In addition, the former director of admissions at the Reseda campus routinely witnessed the regional director of admissions and other employees from the corporate offices telling potential students what income amount to write into their financial aid applications and encouraging them to (1)

38 * Decl., Ex. 16.
39 IS Decl. at ¶¶ 10, 27.
40 RF Decl. at ¶¶ 11, 31, 37.
41 * Decl., Ex. 18.
42 ML Decl. at ¶¶ 21–24, 30.
43 PW Decl. at ¶ 35.
44 CT Decl. at ¶ 22, Ex. 6.
45 MJ Decl. at ¶ 19.
46 * Decl., Ex. 27, at p. 120.
47 ML Decl. at ¶ 35.
48 * Decl., Ex. 27 at PP. 83–85.
49 JT Decl. at ¶ 23; RH Decl. at ¶¶ 27–29; SR Decl. at ¶ 17.

have a parent co-sign the loan documents while they were drunk; (2) forge their parents' signatures on the loan documents; (3) steal and use the social security number of a parent or relative; and (4) make up or guess their incomes.[50]

SUMMARY OF THE TERMS OF JUDGMENT

The Judgment required the school to provide $5,800,000 in restitution to students in the form of cash and cancellations of contracts, pay up to $100,000 for administration of the restitution program, pay $500,000 into the unfair competition law fund (a State-mandated fund in which civil penalties are deposited) and $200,000 in expenses to the AG, for a total monetary amount of $6.6 million. It enjoined the school from unfair, misleading and unlawful conduct alleged in the complaint and required the school to stop offering nine of its lowest performing programs for at least 18 months.

CONCLUSIONS

I believe the evidence summarized here has importance beyond the particular school in question.

The Current System Allows the Kind of Poor Outcomes Described Above

The primary lobbying group for proprietary schools describes itself as an organization of private post-secondary schools that "provide career-specific educational programs."[51] You don't have to watch much TV to know proprietary schools hold themselves out as great places to get career education. Under the law, proprietary schools' programs are only eligible for Federal student aid if the program prepares students for gainful employment. But despite the focus on employment/career education, the truth is, for decades, Federal student aid has been provided to virtually any school that is accredited, or can buy an accredited school, without regard to whether the programs can prepare a student for employment, whether there is any need for such employment, or whether the remuneration from the employment would be adequate to pay the student's loans and other living expenses.

The student aid program applies no uniform standards to determine whether schools required to prepare students for gainful employment actually do so. There is no uniform standard definition of what constitutes employment, much less, what is the minimum level of employment success a school must meet, what data must be collected and maintained to support statements of employment success or how such data must be verified to ensure it is accurate.

Accreditation Does Not Prevent Poor Outcomes, Fraud or Abuse

Virtually every school the California AG has sued since the late 1980s, including the school described here, was accredited; accreditation did not stop the harmful practices. Even after the AG accumulated the evidence described here, the school's accreditors or potential future accreditors showed no interest in examining the evidence. Private accrediting agencies do not have uniform or specific standards as to what constitutes a job placement. In any event, they are simply not equipped or designed to police the conduct that harms students and saddles taxpayers to pay this massive, but little understood Wall Street subsidy.

Numerous IG, GAO and other reports and studies over the years affirm that accreditation is inadequate to the task. (See e.g., IG Report, Accrediting Agency Recognition Process Does Not Serve as an Effective Control in Determining the Reliability of Agencies that Accredit Numerous Problem Schools, 1991; IG Report, Managing for Results, Review of Performance-Based Systems at Selected Accrediting Agencies, 1995.) In 2003 the Inspector General found that:

> "[T]here is no assurance that the [U.S. Department of Education unit charged with recognizing accrediting agencies] evaluated accrediting agency standards and procedures in a consistent and effective matter."

Current Means of Redress for Students Are Inadequate to Effectuate Change

Although the president of the Career College Association recently stated on Frontline that if students are misled, the government could wipe out their loans, that is not the state of the law. The Department does not just refund students their loan money if the school misled them or did not prepare them for gainful employment. The circumstances in which the Department of Education can "discharge" a student's loan debt due to a school's conduct are currently limited to a few circumstances, such as if the school falsely certified the student was eligible for stu-

[50] * Decl., Ex. 27 at PP. 18–21, 87–89, 94.
[51] CCA press release 6/9/2010.

dent aid, or the school closed before the student completed the program. In any event, the current limited after-the-fact method of relieving students from liability, while providing much needed relief in limited circumstances, does nothing to change the system, primarily because the chances that the school and lender will be held liable for discharged amounts are small.

Similarly, schools, lenders and investors are insulated from students defaulting on their loans. Students cannot discharge student loans (even loans made by private companies) in bankruptcy, except in a few very limited circumstances. That is a unique benefit for private lenders not available to other types of private creditors.

Prosecutions or Private Litigation Are Not the Whole Answer

Prosecutions, while helpful, are expensive and time consuming. Government agencies' resources are dwarfed by those of the industry. There would never be enough resources to adequately police conduct. Without specific requirements, such as we had in California, for the job placement rate a school must meet, cases are much more amorphous. It is much more difficult to discover and prove that a school misleads its students as a general practice if there is no required standard or disclosure to test the representations against. In any event, lawsuits are after the fact, often years after harm has occurred.

Private litigants and State and local prosecutors alike are barred from enforcing the student aid provisions directly. Private litigation is sometimes initiated by former employee whistle blowers who know the ways a school received student aid for students based on false information. Few attorneys have the expertise or the tremendous resources needed to bring a case on behalf of former employees or to represent impoverished former students in cases brought under State laws.

The Problem is Not Just a Few Bad Apples

Because proprietary schools are not required to demonstrate they really can prepare students for careers that pay adequately to support student loan payments, we have no data to support the often stated notion that most are doing an adequate job. What we do know is that despite the difficulties and expense of litigation, there has been a rising tide of administrative actions, prosecutions and lawsuits. These actions are not limited to fringe operators. Many of these actions are against some of the largest, most visible proprietary schools for their recruitment practices, including their misrepresentations about accreditation, transfer of credits or their graduates' success in job placement and obtaining good salaries. That rising tide, however, is likely the tip of the iceberg. Many private cases are settled, often with confidentiality provisions, so there is no public document identifying the lawsuit or the amount of the settlement, much less the evidence obtained in the course of the litigation. Confidential settlements may explicitly or implicitly prevent students from contacting public agencies about the alleged wrongful conduct.

Simply Adding More Disclosure Is Not the Answer

As demonstrated by the evidence discussed above, disclosures can easily be avoided or manipulated to prevent their impact by: providing them in a stack of documents; denigrating them as out-of-date or not anything important as they are not about money; or requiring students to sign them, but not giving them a copy. Of course, even if disclosures were given, because there is currently no standard definition of what constitutes a job placement, such disclosures would also be largely meaningless. More fundamentally, we know the task of enforcement is difficult and expensive for government agencies. We cannot expect that students would be able to police the expenditure of billions of dollars in taxpayer funds, especially since they have no ability to sue directly for violations of the Higher Education Act.

The Current System Fuels a Race to the Bottom

Since proprietary schools were included in the GI Bill after World War II, commentators and legislators have repeatedly recognized that these schools disproportionately account for poor outcomes, fraud and abuse. Yet the current system continues to fuel a race to the bottom. The kinds of conduct described are the natural outcome of a system that allows a 90 percent Federal subsidy for private sector, for-profit schools, but doesn't measure employment success or require any minimal level of success. Consequently, the schools are measured by Wall Street on their "starts," not their finishes.

Based on my knowledge of other investigations and cases against proprietary schools over the years and my experience in investigating and prosecuting all types of consumer fraud cases, in my opinion, the consumer abuses in the proprietary school industry are among the most persistent, egregious and widespread of any industry.

The Department of Education has proposed some much-needed regulations to attempt to fix the problem. That is a good start, but fixing this problem will require stronger, tougher regulations than the Department of Education has yet proposed. It will also require legislative measures that finally get to the heart of the problem.

The CHAIRMAN. Ms. Reiter, thank you very, very much for that statement.

Now we turn to Ms. Parrott. Ms. Parrott, welcome. Please proceed.

STATEMENT OF SHARON THOMAS PARROTT, SENIOR VICE PRESIDENT, GOVERNMENT AND REGULATORY AFFAIRS, AND CHIEF COMPLIANCE OFFICER, DeVRY, INC., CHICAGO, IL

Ms. PARROTT. Thank you. Chairman Harkin, Ranking Member Enzi, and members of the committee, thank you for inviting me to testify this morning and thank you for the investment that you make in educating America's students.

I am really happy to be here today to represent the colleges and universities in the DeVry family and the over 100,000 students, 17,000 faculty and staff at over 100 campuses and online.

First, I would like to tell you a little bit about myself and why this is so important to me.

I was born and raised and still live on the south side of Chicago. There were and continue to be enormous institutional barriers for young African-Americans who want to go to college. With the help of wonderful parents and awesome teachers, I graduated from the Chicago public schools. My first job was teaching at my high school.

After a number of years as a college professor and administrator, I went to work for the U.S. Department of Education in the student financial assistance area, both in compliance and training, before coming to DeVry over 28 years ago.

I see myself in the students DeVry serves. Our mission is very simple. We seek to empower our students to achieve their educational and career goals. We achieve that mission by offering high quality certificates and degree programs in allied health, business, technology, nursing, and medicine taught by dedicated and experienced faculty that love to teach and share their own real-world experience with their students.

Empowering our students means putting their needs front and center. Their success is our success. It means offering classes at times and at locations that meet their schedules. We go where our students need us to be, or if we cannot be there, we give them online tools to come to us.

We have a long history. Our flagship institution, DeVry University, was founded in Chicago in 1931. After World War II, we helped many a returning veteran transition to new careers. Today we are a comprehensive university offering associate, baccalaureate, and graduate degrees. Since 1975, over 200,000 men and women have earned those degrees. The top five employers of our alums are AT&T, Verizon, General Electric, Intel, and IBM. They hire our graduates because they see the quality and value of a DeVry education.

As you know, the bulk of our country's higher education capacity is still filled by public State-supported schools, but institutions like ours grow for a reason. There is an enormous unmet need, especially among the so-called nontraditional students. We grow capacity. In fact, our oldest college founded in 1889, Chamberlain College of Nursing, is opening two new campuses in July, one just across the river in Arlington, VA, and a second at the request of Mayor Daly in Chicago.

The reality is that nearly 75 percent of students today are defined as nontraditional but are really the new majority. They are first in their family to go to college—minorities, recent immigrants, and career changers. Many of them work full-time and have children. In the past, they could support themselves and their families with only a high school education. This is no longer the case.

President Obama's college attainment goal means that we will need to produce an additional 8.2 million post-secondary graduates by 2020. Secretary Arne Duncan, at our policy forum held this past May, said that DeVry is a vital partner in the education field, which is what we need to meet the President's goal of having the most educated, the most competitive workforce by 2020.

That will require innovative approaches like the DeVry University Advantage Academy, a dual enrollment program we started with Secretary Duncan when he headed up the Chicago public schools and have now taken to Columbus, OH. It gives CPS students, both Columbus public schools and Chicago public schools, the opportunity to graduate from high school and earn an associate degree by the end of their high school years at no cost to the student using no financial aid dollars. It works with a dual degree graduation rate of 92 percent over 6 years.

In America, the shortage of nurses is projected to be 1 million by 2020. Yet we are turning away 99,000 qualified applicants every year because of a lack of capacity in our nursing schools. This is where nursing programs like ours are part of the solution.

Issues like student debt and graduation rates are a serious concern for all sectors of higher education, but I am not interested in drawing false distinctions between what motivates a private sector school and what motivates a State-funded public school. At the end of the day, if we are student-centric, the ties that bind will be greater than the lines that divide. No matter what kind of institution it is, it needs to serve students well or it will not and it should not survive. At the end of the day, our country needs to produce an educated workforce that can thrive in a rapidly changing global economy. It is in the best interest of all of us to work together to solve these issues.

I thank the committee for holding these hearings and look forward to working with my colleagues in higher education to serve our Nation's students. Thank you.

[The prepared statement of Ms. Parrott follows:]

PREPARED STATEMENT OF SHARON THOMAS PARROTT

On behalf of the students, faculty and staff of the DeVry family of U.S.-based post-secondary institutions including Apollo College, Chamberlain College of Nursing, DeVry University and Western Career College, thank you for the opportunity to submit written testimony to the Senate Committee on Health, Education, Labor, and Pensions. It is an honor to represent our students and, on their behalf, thank the Congress for the investment made toward their educational pursuits and career success.

I have devoted my adult life to this effort because each student we empower and each graduate success matters. My passion for this field is embodied in Harvard's

Sara Lawrence Lightfoot's comment, "You have to feel deeply about wanting your students to succeed, in some sense you have to see yourselves in the eyes of those you serve or at least see your destiny reflected in them." In 1982 I joined DeVry after working for the U.S. Department of Education in the area of student financial aid. Prior to that, I was director of academic support programs at Loyola University of Chicago and held faculty and administrative positions at Harlan High School in Chicago, Dominican University, Northeastern Illinois University and George Williams College in Illinois. I have had the privilege to serve on the National Research Council's Panel on Quality Improvement in Student Financial Aid Programs and The College Board's National Committee on Standards of Ability to Pay; as well as on numerous student financial assistance committees and the board of directors of the National Association of Student Financial Aid Administrators (NASFAA). Since graduating from Harlan High School, a public school on the south side of Chicago, education has been my vocation and aspiration and is what brought me to DeVry. My parents knew that a college education was an imperative and kept me focused and on track until I completed my undergraduate and graduate education at the University of Illinois. Unfortunately, much like then, there continues to be enormous institutional barriers for young African-Americans and other traditionally underrepresented and underserved populations who want to go to college. It is by no accident that my journey brought me to DeVry.

DeVry is a global educational provider serving students in secondary through professional education as well as the accounting and finance professions. Although my written testimony primarily focuses on our U.S.-based, post-secondary undergraduate serving institutions, our overarching purpose is unchanged; empowering our students to achieve their educational and career goals. We work to democratize education. We achieve our mission by providing high-quality educational programs across a wide spectrum of disciplines including but not limited to allied health, electrical engineering, network systems design, health information technology, nursing, medical and veterinary studies. Our institutions serve more than 100,000 students at 120 campuses across the country. Our programs are taught by academically qualified, practitioner-oriented faculty who are passionate about teaching and choose to share what they have learned in both an academic setting and after years of professional experience. Apollo College, Chamberlain College of Nursing, DeVry University and Western Career College offer more than 75 undergraduate and graduate degree and certificate programs onsite, online and through blended delivery.

Our colleges and universities are not new to the higher education arena. Chamberlain College of Nursing was established in 1889. DeVry University was founded in 1931, Western Career College in 1967 and Apollo College in 1975. Our institutions are accredited by regional and national accrediting bodies including the Higher Learning Commission of the North Central Association of Colleges and Schools (HLC), the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (WASC) and the Accrediting Council for Independent Colleges and Schools (ACICS). In addition, many of our programs are programmatically accredited by specialized accrediting bodies (Appendix A, Table 1). These bodies are recognized by the U.S. Department of Education.

We partner with the greater higher education community to regain our Nation's prominence as the world's higher education leader. We can achieve this goal only by working together and focusing our collective attention on enrolling and graduating students, especially those deemed "non-traditional" but who have quickly become the new majority: working adults looking to switch or broaden their career paths, single parents balancing work and life responsibilities, returnees to higher education with a renewed focus on obtaining the skills and education to succeed in a career of their choosing and recent high school graduates looking for career-focused educational opportunities that will enable them to enter the workforce with both a strong theoretical foundation and hands-on experience (Appendix B).

From admissions to graduation, we are focused on developing world-class customer service—all with the singular focus to empower our students to achieve their career ambition. We offer students high-quality educational opportunities, the support and resources necessary to complete their education and, once they have earned a certificate or degree, lifelong, first-class career services.

The financial aid process is integrated into the enrollment process. Prospective students are introduced to the financial aid office on their initial visit. They are given information tailored to their status (dependent/independent), assistance with financial aid and scholarship applications if needed and information regarding their financial aid eligibility. Our goal is to deliver a complete disclosure covering the first year's costs, financial aid and financial obligations prior to a student commencing their enrollment. The disclosure consists of a personalized financial plan with expected costs for their first year of studies and the method by which they will pay for those costs. Loan obligations, including repayment terms and timing, are explained either in the financial advising session or through Web-based counseling. All students must successfully complete a loan "quiz" prior to the disbursement of loan funds.

We have expanded our student services function to include more academic advisors and success coaches whose role is to help students overcome obstacles that have historically prevented many from completing their education. We continuously monitor attendance and academic performance to identify potential issues. We offer extensive academic support through onsite advisors and telephone contact centers. We have online resources available to help students with questions ranging from where they can send payment to updating their personal computer applications to planning their course of study. We measure student satisfaction with each course.

Our 200-plus career services professionals support new graduates by connecting students with internship opportunities and facilitating student, graduate and employer interaction at career fairs and networking opportunities. Our career services professionals provide group and individual career advising sessions, career development courses, interview preparation and practice and resumé and cover letter guidance. Our graduates have lifetime access to these services.

Student debt burden is often attributed to private sector tuition costs. Critics allege that private sector school costs are significantly higher than public not-for-profit schools. It is true that private sector tuition rates are typically higher than in-state public tuition rates, but this is due to the lack of taxpayer subsidies rather than an actual cost differential. Private sector institutions actively contain unnecessary and unproductive costs to control student debt. When considering actual revenue based on full-time equivalency, private sector schools show much greater cost efficiencies than either the public or independent sectors. According to the National Center for Education Statistics, the revenue received per full-time equivalency for private sector schools in 2006–2007 was $14,815 versus $29,306 received for public schools and $61,586 for independent schools. DeVry's net income margin for Fiscal Year 2009 was 11 percent. Substantially all of these profits were retained to re-invest in the future. Our retained earnings are our students' endowment. During this past fiscal year, more than $100 million has been re-invested into new equipment and facilities, upgraded classrooms, redevelopment of curricula, expanded academic offerings and additional staff serving to meet our students' goals.

At DeVry, we are focused on doing well by doing good. DeVry offered over $90 million this year alone in tuition scholarships and waivers. We contribute to our communities through educational programs and partnerships including Passport to College, a tuition-free summer program where high school students earn college credit and HerWorld, an event designed to encourage young women to pursue careers in science and technology. Our students and staff participate in world-wide relief and service projects, contributing the knowledge and skills they have developed in their studies. As part of their curriculum, some of our Chamberlain College of Nursing students participate in the Brazil International Nursing Service Project, donating their time and skills to offer critical nursing care in that country. DeVry University students in Colorado spent hundreds of hours this past year rebuilding computers for student use in Africa. To improve high school graduation and college-going rates in Chicago, we developed the DeVry University Advantage Academy with then-CEO of the Chicago Public Schools, Arne Duncan. The DeVry University Advantage Academy is a dual enrollment program currently operating in Chicago and Columbus, OH. This program allows public school students to take their junior and senior year courses from certified high school teachers while simultaneously taking college courses from DeVry professors. At the end of those 2 years, including one summer, students graduate with both a high school diploma and an associate degree at no cost to them or their families, and without using Federal or State student financial aid. Since its inception, Chicago students have graduated and earned an associate degree at 92 percent and Columbus has been perfect at 100 percent. As you all know, urban school districts graduate only about 50 percent of their students.

Given the impossible budget choices State legislatures have had to and will continue to have to make, public sector schools alone do not have the capacity to meet President Obama's goal to educate 8.2 million additional post-secondary graduates and close educational gaps by 2020. Capacity is being cut at the precise time that it needs to be increased. Achieving the President's 2020 goal will not and cannot happen without the private sector. The President's goal requires adding capacity—quickly, with quality and integrity.

With an overall student population of 2.8 million students and capacity to grow without taxpayer subsidy, private sector schools can help achieve that goal. We will need every single part of our higher education system to deliver high-quality opportunities to an exponentially growing student population. Institutions like Chamberlain College of Nursing are a crucial part of meeting our country's future nursing workforce needs. With nearly 99,000 applicants turned away from nursing schools each year, not due to lack of qualifications but because existing nursing programs are at capacity, our ability to meet practical challenges including new demands on health care hang in the balance (Association of Colleges of Nursing). Private-sector schools like those within our system have the capacity to help meet this national imperative and are very much a part of higher education's future. Secretary Duncan, in remarks made at our policy forum held in May 2010, stated,

> "For-profit institutions play a vital role in training young people and adults for jobs and for-profits will continue to help families secure a better future for themselves. They are helping America meet the President's 2020 goal and helping us meet the growing demand for skills that our public institutions cannot begin to meet alone, especially in these economically challenging times."

Georgetown University's Center on Education and the Workforce recently released a study on jobs and education requirements through 2018 substantiating very daunting numbers. They project that "by 2018, America will need 22 million new college degrees, but will fall short of that number by at least 3 million post-secondary degrees, Associate's or better" and that ". . . America's colleges and universities would need to increase the number of degrees they confer by 10 percent annually, a tall order." The study very clearly demonstrates how difficult it will be for those with only a high school diploma and how post-secondary education has "become the gatekeeper to the middle class and the upper class." Their study shows that between 1970 and 2007, the percentage of high school graduates defined as middle class dropped from 60 percent to 45 percent. These trends have significant economic and workforce development implications and impact our democratic foundations. A healthy democracy depends on a large, educated middle class for its very survival. The Georgetown study shows an erosion of our middle class foundation—a worrying trend that seems likely to continue.

Private-sector educators are an integral part of today's higher education landscape. Even so, there is a wealth of misinformation concerning our institutions and sector. For years, private-sector education was a fairly small part of higher education. And although the private sector is not "the" solution to all of the challenges we face in education, about 10 percent of all higher education enrollments are attributed to our sector. Institutions like ours are growing for a reason—there is an enormous unmet need for higher education, especially among traditionally underserved populations. And to our credit, institutions like DeVry recognized the needs of these students and adapted providing prudent, reasoned growth. To paraphrase Secretary Duncan, students vote with their feet. Federal student aid goes to the student and the student chooses which college is the right fit for them. This indicates a healthy and adapting but still competitive system of higher education. Alternatives generate competition which drives accountability to the customer, whether a student, an employer or the taxpayer. A system without alternative opportunities for access to education is a system geared toward only educating the economic and social elite. We have moved beyond that type of system, much to our country's benefit, and the benefit of our citizens.

There has been much debate concerning the role that private sector institutions play within the greater higher education arena especially in terms of "good actors" and "bad actors." Please make no mistake, when an institution does something wrong and in conflict with the best interest of students, they must be held accountable. However, I submit that rather than limiting oversight to one sector over another or one "actor" over the "other," policymakers consider that there are "good acts" and "bad acts" of which no sector is immune. And just as acts of impropriety must be addressed, institutions must also remain capable and emboldened to act nimbly and with quality to address society's education needs. This includes allowing for innovation like blended online and onsite learning and year-round study. The problems of the few should not erase the continuous service and work of the many.

The post-secondary education community must ensure public and congressional confidence in our institutions. We must protect and preserve the integrity of our programs. Consistent guidelines are required for the sound administration of educational and financial aid programs. Performance rather than sector should be the basis of any unique requirement. Not only is the promulgation of separate regulations for different post-secondary sectors unequal treatment, it would be redundant and costly, putting an additional cost burden on the American taxpayer. Preventative measures based on the quality of educational outcomes are more effective and less costly than punishment after the fact.

The institutions that perform well should continue to participate fully in the programs. Institutions that are poor performers should be required to improve and adhere to more regulatory requirements. Abusers should have their eligibility suspended or terminated.

Our colleges and universities are responsible for meeting Federal and State statutory and regulatory requirements. At DeVry, we adhere to these requirements, including title IV compliance and State authorization, through a centralize approach involving a staff with over 200 years of experience. We must ensure that our institutions obtain and maintain authorization to operate and confer degrees or other recognized credentials, have the appropriate authorization to recruit students through compliance with statutes, regulations and policies. This is achieved through clear internal operating procedures, internal quality controls, regular and standardized professional staff development, seasoned outside auditors and internal quality assurances. We also maintain strong communications with governmental entities and professional associations including the College Board, American Council on Education (ACE) and National Association of Student Financial Aid Administrators (NASFAA).

The dilemma facing higher education and the Congress is how to ensure quality and accountability, and to prevent abuse without creating overly burdensome regulations that could have the unintended consequence of precluding students from receiving the education required for a sustainable, thriving global economy.

The biggest challenge facing most students is having the appropriate school information to make good decisions. All students should have information available to them regarding their total cost of education, an understanding of how they will pay for those costs and reasonable expectations for employment or graduate school following completion of their studies. Their second biggest challenge is having the right financing in place to assist with paying for their education. The Higher Education Opportunity Act (HEOA) of 2008 addressed both of these issues with expansion of consumer disclosures, requirement of school certification of private loans (allowing schools to intercede where students were choosing more expensive loans over Federal loans) and increasing the maximum Pell Grant award as well as extending Pell Grant coverage for year-round students. This last provision addressed an inequity borne by many year-round nontraditional students and will help lower the overall debt burden for these students. Despite the increased disclosure requirements, there still is no assurance that prospective students will have an understanding of their total financial commitment, nor their postgraduation opportunities. In response to the Secretary's proposed rules (during Negotiated Rulemaking) regarding the requirement that certain programs of study prepare students for gainful employment in a recognized occupation, we proposed a robust disclosure process to assure students have the appropriate information needed to make informed educational decisions. We are pleased that the Secretary has adopted this suggestion with the issuance of his Notice of Proposed Rulemaking (NPRM), but are disappointed that it is limited only to enrollments in certain programs of study. This is a protection that should be assured all prospective students.

Congress is once again revisiting regulations around higher education. We welcome this and will continue to engage the Congress, Department of Education and educational stakeholders on behalf of our students to assure that they are fairly and well-served. Issues including institutional quality, student indebtedness, time-to-degree, persistence and graduation rates are a serious concern for *all* sectors of higher education. We are ill-served by drawing false distinctions between what motivates a private-sector school like DeVry and what motivates a State-funded public or eleemosynary institution. All institutions must serve students well or they will not survive. Our country needs to produce an educated workforce that can thrive in a rapidly changing global economy, or we will not maintain our leadership position. It is in the best interest of all of us in higher education to work together to solve these issues. The future of this Nation depends on an educated workforce for as H.G. Wells' asserted, "Human history becomes more and more a race between education and catastrophe."

APPENDIX A

Table 1

Institution	Accrediting Body	Program/Locations
Apollo College	Accrediting Council for Independent Colleges and Schools (ACICS).	All Apollo College locations.

Table 1—Continued

Institution	Accrediting Body	Program/Locations
Apollo College	Joint Review Committee on Education in Radiologic Technology (JRCERT).	Medical Radiography.
Apollo College	Committee on Accreditation for Respiratory Care.	Respiratory Therapy.
Apollo College	Commission on Dental Accreditation	Dental Hygiene.
Apollo College	Accrediting Bureau of Health Education Schools (ABHES).	Medical Assisting.
Chamberlain College of Nursing.	Commission on Colligate Nursing Education (CCNE).	Bachelor of Science in Nursing (Addison, IL, Columbus, OH, Phoenix, AZ, St. Louis, MO).
Chamberlain College of Nursing.	National League for Nursing Accreditation Commission (NLNAC).	Bachelor of Science in Nursing (Columbus, OH, St. Louis, MO).
Chamberlain College of Nursing.	Higher Learning Commission of the North Central Association of Colleges and Schools.	All Chamberlain locations.
DeVry University	Higher Learning Commission of the North Central Association of Colleges and Schools.	All DeVry University U.S. locations.
DeVry University	Technology Accreditation Commission of ABET.	Bachelor of Science in Biomedical Engineering Technology (Columbus, OH, Decatur/Alpharetta, GA, Federal Way, WA, Ft. Washington, PA, Irving, TX, Kansas City, MO, Fremont, CA, Phoenix, AZ).
DeVry University	Technology Accreditation Commission of ABET.	Bachelor of Science in Computer Engineering Technology (Addison, IL, Arlington, VA, Chicago, IL, Columbus, OH, Decatur/Alpharetta, GA, Federal Way, WA, Ft. Washington, PA, Houston, TX, Irving, TX, Kansas City, MO, Long Island City, NY, Fremont, CA, Orlando, FL, Phoenix, AZ, Miramar, FL, Long Beach, CA, Pomona, CA, Sherman Oaks, CA, Westminster, CO).
DeVry University	Technology Accreditation Commission of ABET.	Bachelor of Science in Electronics Engineering Technology (Addison, IL, Arlington, VA, Chicago, IL, Columbus, OH, Decatur/Alpharetta, GA, Federal Way, WA, Ft. Washington, PA, Houston, TX, Irving, TX, Kansas City, MO, Long Island City, NY, North Brunswick, NJ, Paramus, NJ, Fremont, CA, Sacramento, CA, Orlando, FL, Phoenix, AZ, Miramar, FL, Long Beach, CA, Pomona, CA, Sherman Oaks, CA, Westminster, CO).
Western Career College	Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (WASC).	All Western Career College locations.
Western Career College	Commission on Dental Accreditation	Dental Hygiene.
Western Career College	American Association of Medical Assistance	Medical Assisting.
Western Career College	Committee on Accreditation for Respiratory Care.	Respiratory Therapy.
Western Career College	Accreditation Review Committee—Surgical Tech (ARC–ST).	Surgical Technology.
Western Career College	American Veterinary Medical Association	Veterinary Technology.
Western Career College	American Society of Health-System Pharmacist Pharmacy Technician.	Pharmacy Technician.

Appendix B.—DeVry University

About DeVry Inc. DeVry's purpose is to empower our students to achieve their educational and career goals. Our colleges and universities offer 75 certificates through graduate and professional degree programs serving undergraduate and graduate students in business, healthcare technology and medicine. DeVry serves students in secondary through post-secondary education as well as accounting and finance professions. DeVry is a global provider of educational services and is the parent organization of Advanced Academics, Apollo College, Becker Professional Education, Chamberlain College of Nursing, DeVry Brasil, DeVry University, Western Career College and Ross University Schools of Medicine and Veterinary Medicine.

About DeVry University. DeVry University helped pioneer accessible post-secondary education to populations too often underserved by higher education. DeVry was one of the first institutions to fully integrate online courses with onsite program delivery, further expanding the flexibility in course offerings needed by today's learners.

Since 1975, nearly 238,000 undergraduate students systemwide have graduated from DeVry University. Over 90 percent of graduates active in the job market were employed in career-related positions within 6 months of graduation.

- Founded in 1931;
- Over 76,000 students nationwide;
- Year-round on-site and online classes allow flexibility; and
- Over 90 campus locations in 26 States offering 26 programs.

About DeVry University Advantage Academy. Since 2004, DeVry University Advantage Academy has partnered with the Chicago Public Schools offering dual enrollment opportunities to area high school students. Since its inception, Chicago high school participants have achieved a 92 percent high school graduation rate and earned an associate degree in Network Systems Administration.

DeVry graduate employers include: AT&T; Boeing; Department of Defense; General Electric; Intel; IBM; JP Morgan Chase; Kaiser Permanente; Kelly Engineering Resources; Northrop Grumman; Sprint Nextel; and Verizon.

DeVry University Student Profile*

Fall 2009 Undergraduate Enrollment	59,518 (U.S.)
Fall 2009 Graduate Enrollment	16,958
Male	54%
Female	46%

	Undergraduate [In percent]	Graduate [In percent]
Percent African-American	26	36
Percent Hispanic	16	9
Percent White	42	35
Percent Asian	5	7
Percent Alaskan Native/American Indian	1	1

Note: 72% of DeVry's students are adult learners.
*Fall 2009 IPEDs.

	Graduate
2008–2009 Total Degrees Conferred	12,924
2008 Graduation Rate for First-time, Full-time	31%**
2008 Full-time New Transfer Students	56%

**As a frame of reference, the median graduation rate of public 4-year institutions, including highly selective institutions, in the States in which DeVry University operates, is 44 percent. The first-time, full-time metric applies to less than 60 percent of fall 2002 entering students.

	Associate Degree	Baccalaureate Degree
Median Loan Debt (2009)	$30,970	$32,184
Cohort Default Rate (2007): (7.9%)		

MOST POPULAR PROGRAMS*

Associate Degree: Electronics and Computer Technology; Health Information Technology; Network Systems Administrations.

Bachelor's Degree: Business Administration; Computer Information Systems; Electronics Engineering Technology; Game Simulation & Programming; Technical Management.

Master's Degree: Accounting and Financial Management; Business Administration; Electrical Engineering; Information Systems Management.

DeVry University provides rigorous, career-oriented associate, baccalaureate and graduate degree programs integrating technology, science, business and the arts. Students access these programs at campus locations and online, meeting the needs of a diverse and geographically dispersed student population.

ACCREDITATION

DeVry University is accredited by The Higher Learning Commission of the North Central Association, one of six regional accrediting agencies for public and private colleges and universities in the United States that are recognized by the U.S. Department of Education. DeVry received a 10-year re-approval from the commission in 2002.

EMPLOYER TESTIMONIALS

"It is critical to our continued success in the high technology arena that we deliver to our customers systems that are sophisticated, exceed quality standards, delivered on time and within budget. From the beginning, DeVry graduates have exceeded our expectations with a terrific team attitude. Their ability to grasp new ideas, investigate technologies, and apply these concepts to projects has allowed PSI to continue our commitment to excellence." (*As a result of their DeVry experience, they already possess the technical blocks needed for a smooth integration into the specific . . . systems we service.*)—Walter Johnson, President of Precision Systems Inc., Horsham, PA.

"We have success with DeVry students for a very specific reason. As a result of their DeVry experience, they already possess the technical blocks needed for a smooth integration into the specific electrical/electronic systems we service. We will continue to rely heavily on DeVry for our future personnel need."—Edward M. Rogers, Director of Operations, API, Inc., Washington D.C. Metro.

STUDENT AND ALUMNI TESTIMONIALS

Armed with my [DeVry University] accounting degree, I took a CPA review course right out of college and, as a result of my DeVry education and the review course, I was able to successfully pass the exam the first time. In addition, the "applied learning" curriculum at DeVry and interactive format of the classes gave me the skills needed to start asking "why" from day one. This approach has been tremendously successful for me in my career advancement. (*". . . the applied learning curriculum at DeVry and interactive format of the classes gave me the skills needed to start asking 'why' from day one."*)—Shawn McCracken, 1992 BS, Accounting, DeVry University (Columbus, OH), Director, Accounts Maintenance and Control (AM&C)—Acquisition, Defense Finance and Accounting Service.

"Obtaining a bachelor's degree in Business Administration at DeVry allowed me to pursue opportunities in a variety of career fields. I was not limited to a technology job or an operations job . . . I was able to have a career that requires a fusion of both business and technology. The confidence and experience I've gained at DeVry has helped me achieve success."—Shamsa Chaudhry, 2002 BSBA Graduate, DeVry University (Addison, IL), Marketing Dashboards Manager, OgilvyOne Worldwide.

"The instructors at DeVry are people who have worked in the industry and know what's going on. The instructors are there to help, and as a student you definitely see that. I was able to graduate with a Bachelor's degree from DeVry University in June 2009, which made me the first in the Messenger family to graduate from college."—Andrew Messenger, 2009, BS, Game & Simulation Programming (Gainesville, FL), Production Assistant, Ignition Entertainment.

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* Programs and delivery vary by location.

CHAMBERLAIN—COLLEGE OF NURSING

ABOUT DEVRY INC.

DeVry's purpose is to empower our students to achieve their educational and career goals. Our colleges and universities offer 75 certificate through graduate and professional degree programs serving undergraduate and graduate students in business, healthcare technology and medicine. DeVry serves students in secondary through post-secondary education as well as accounting and finance professions. DeVry is a global provider of educational services and is the parent organization of Advanced Academics, Apollo College, Becker Professional Education, Chamberlain College of Nursing, DeVry Brasil, DeVry University, Western Career College and Ross University Schools of Medicine and Veterinary Medicine.

ABOUT CHAMBERLAIN COLLEGE OF NURSING

Since its founding in St. Louis, MO over 120 years ago, Chamberlain College of Nursing (formerly Deaconess College of Nursing) has continually provided quality and innovative nursing education programs to its students. The College offers programs with a strong historical foundation, broad general education background and an extensive clinical practice component that culminates in compassionate and clinically proficient graduates. As a result, Chamberlain graduates generally pass the NCLEX–RN licensure exam at rates on par or greater than the national average.

Chamberlain features a diverse student body: registered nurses completing bachelor's and master's degrees, traditional high school graduates seeking a quality nursing education experience close to home and working adults looking to switch their career path and enter the nursing field.

CHAMBERLAIN COLLEGE OF NURSING PROFILE

Founded in 1889; Year-round onsite and online classes allow flexibility; Campuses in Arizona, Florida, Illinois, Ohio, Missouri and Virginia; State-of-the-art nursing simulation labs and equipment; Experienced, highly skilled and dedicated faculty; 2009 NCLEX–RN Pass Rates: 90 percent—98.55 percent.

Chamberlain College of Nursing Student Profile*

Fall 2009 Undergraduate Enrollment	5,108
Fall 2009 Graduate Enrollment	119
Male	9%
Female	91%

	Undergraduate [In percent]	Graduate [In percent]
Percent African-American	14	13
Percent Hispanic	4	3
Percent White	69	62
Percent Asian	5	1
Percent Alaskan Native/American Indian	1	1

Note: 80 percent of Chamberlain's students are adult learners.
*Fall 2009 IPEDs.

	Graduate
2008–2009 Total Degrees and Graduate Certificates Conferred	945
2008 Graduation Rate for First-time, Full-time Students	35%**
2008 Graduation Rate for Full-time New Transfer Students	42%

**The first-time, full-time metric applies to only 16 percent of fall 2002 entering students.

	Associate Degree	Baccalaureate Degree
Median Loan Debt (2009)	$24,108	$18,562
Cohort Default Rate (2007): 2.9%.		

TYPICAL CHAMBERLAIN GRADUATE NURSING PROFESSIONS

Clinical Informatics; Community Nurse; Clinical Products Specialist; Homecare; School Nurse; Staff Nurse; Supervisor/Manager Charge Nurse; Telephonic Advice Nurse.

UNDERGRADUATE PROGRAMS*

Licensed Practical Nurse to Registered Nurse (onsite and online); Associate Degree in Nursing (onsite and online); Bachelor of Science in Nursing (onsite); Registered Nurse to Bachelor of Science in Nursing (online).

GRADUATE PROGRAMS*

Master of Science in Nursing (online).

ACCREDITATION

Chamberlain College of Nursing is accredited by The Higher Learning Commission of the North Central Association of Colleges and Schools, one of the six regional agencies that accredit U.S. colleges and universities at the institutional level. The bachelor of science in nursing degree program at the St. Louis and Columbus campuses and the associate of science degree in nursing program at the Columbus campus are accredited by the National League for Nursing Accrediting Commission (NLNAC). The bachelor of science in nursing degree program at the Addison, Columbus, Phoenix and St. Louis campuses is accredited by the Commission on Collegiate Nursing Education (CCNE). Accreditation provides assurance to the public and to prospective students that standards of quality have been met.

EMPLOYER TESTIMONIALS

"Saint John's recruits from Chamberlain because they have highly qualified, highly competent, highly skilled graduates. They have the right combination for us. At Saint John's we look for graduates that are able to not only deliver quality care but deliver great service and Chamberlain has repeatedly delivered that for us." ("*We look for graduates that are able to not only deliver quality care but deliver great service and Chamberlain has repeatedly delivered that for us.*")—Kimberly McGrath, Nurse Manager, Saint John's Mercy Medical Center, St. Louis, MO.

"The bridge programs that Chamberlain offers are very beneficial. We actually have an employee population here . . . who've often been here for a number of years and started their career as, say, a licensed practical nurse. Well, as the market changes and . . . as things develop, it is more beneficial for them to be a registered nurse because their scope is that much wider. And so we've had a number of our own LPNs go through the Chamberlain bridge program and they can become an RN in less than a year, particularly with their hands-on clinical experience, and the education that is provided through Chamberlain."—Casey Cook, HR Generalist, Forest Park Hospital, St. Louis, MO.

"We're really looking forward to working the Chamberlain nursing students. The Chamberlain students will be getting an exceptional technical training, here at the campus. They have state-of-the-art facilities, but those technical skills can only take a student so far. So by coming to the Adventist Midwest Hospitals, they will have the opportunity to practice with patients, and work with mentors, and other seasoned, experienced registered nurses who can role model positive interactions with patients, and teach them some of the decisionmaking skills that are so important for nurses in this day and age."—Jackie Conrad, Chief Nursing Officer & VP for Patient Care Services, Glen Oaks Adventist Hospital, Glendale Heights, IL.

"I personally hire a lot of new graduates and I wouldn't hesitate to hire a new graduate from Chamberlain College due to the fact that they're very well prepared when they are in the program and clinically knowledgeable and definitely willing to learn." ("*I wouldn't hesitate to hire a new graduate from Chamberlain College due*

* Programs and delivery vary by location.

to the fact that they're very well prepared . . . and clinically knowledgeable . . .")—Lisa Palmer, Director of Nursing, Palm Valley Rehab and Care Center, Goodyear, AZ.

STUDENT TESTIMONIALS

"What's it like being a student at Chamberlain? It's awesome because . . . for once, I'm able to get into a career that I've always loved. I'm able to become the nurse that I've always dreamed of becoming.—Towana Sullivan, Chamberlain student, Columbus, OH.

"I think the reason one should choose Chamberlain is the dedication of the staff. I think when you have them behind you, you can achieve what you want."—Debra Reider, Chamberlain student, St. Louis, MO.

APOLLO COLLEGE

ABOUT DEVRY INC.

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ABOUT APOLLO COLLEGE AND WESTERN CAREER COLLEGE

With over 15,000 students, Apollo College and Western Career College are leading providers of post-secondary healthcare education in the western region of the United States. The Colleges provide 45 high-quality, career-oriented healthcare diploma, associate and bachelor's degree (July 2010) programs ranging from Medical Assisting, Dental Assisting, Pharmacy Technology, and Healthcare Administration, to advanced programs such as Nursing, Dental Hygiene, Surgical Technology, Medical Sonography and Respiratory Therapy.

These program offerings capitalize on powerful demographic and secular trends that are driving the increasing demand for highly qualified healthcare professionals in the United States.

APPOLLO COLLEGE PROFILE

Founded in 1975; Ten campuses in six States Arizona, Idaho, Nevada, New Mexico, Oregon and Washington.

WESTERN CAREER COLLEGE PROFILE

Founded in 1967; Nine campuses across northern and southern California.

Apollo College Student Profile:	
Fall 2009 Enrollment	9,275*
Male	19%
Female	81%
African-American	5%
Hispanic	25%
White	46%
Asian	3%
Alaskan Native/American Indian	5%
Western Career College Student Profile:	
Fall 2009 Enrollment	6,381*
Male	15%
Female	85%
African-American	16%
Hispanic	21%
White	32%
Asian	13%
Alaskan Native/American Indian	1%

2008–2009 Total Degrees and Diplomas Conferred	7,325
Apollo College	4,288
Western Career College	3,037
2008 First-time, Full-time Graduation Rate (combined)	59%
Apollo College	60%
Western Career College	58%

*Fall 2009 IPEDs.

Apollo College	Diploma	Associate Degree
Median Loan Debt (FY 2009)	$8,402	$20,850
Cohort Default Rate (2007): 7.2%		

Western Career College	Diploma	Associate Degree
Median Loan Debt (FY 2009)	$10,125	$14,975
Cohort Default Rate (2007): 10.2%		

APOLLO COLLEGE ACCREDITATION

Apollo College is accredited by the Accrediting Council for Independent Colleges and Schools (ACICS) to award Bachelor of Science, Associate of Science and Associate of Occupational Studies degrees. ACICS is recognized by the U.S. Department of Education and by the Council for Higher Education Accreditation.

WESTERN CAREER COLLEGE ACCREDITATION

Western Career College is accredited by the Accrediting Commission for Community and Junior Colleges of the Western Association of Schools and Colleges (WASC), an institutional accrediting body recognized by the Council for Higher Education Accreditation and the U.S. Department of Education.

EMPLOYER TESTIMONIALS

". . . Apollo students have been an integral part of our clinic . . . The faculty act as excellent role models and provide up-to-date clinical education . . ."—Dr. Kathy Lopez-Bushnell, RNC, EdD, MPH; The University of New Mexico Hospitals, Albuquerque, NM.

". . . Apollo College provides us with knowledgeable Medical Assistant students to complete their externships . . . Our University Health Center has hired graduates with great success. We believe in Apollo College . . ."—Betsy Johnson, RN, BSN: Supervisor, Boise State University Health Services, Boise, ID.

ALUMNI TESTIMONIALS

"My life has changed significantly since graduating. I have more self-esteem and confidence."—Karen Solari, 2006 Western Career College Pharmacy Technician graduate, Sacramento, CA.

"I have been working nonstop since receiving my nursing license—and I love what I do! I finally got my dream job working at a major hospital."—Theresa Morin, 2005 Western Career College Vocational Nursing graduate, Elk Grove, CA.

"My experience at Apollo has been amazing. The hands-on training makes learning easier and more enjoyable. My instructors were 100 percent top-notch. The class sizes are small so you get a lot more help. I can't say enough great things about Apollo."—Jamie Martinez, Apollo College Dental Assisting student, Mesa, AZ.

The CHAIRMAN. Ms. Parrott, thank you very much for being here and for your excellent testimony.

Now we turn to Mr. Steve Eisman. Mr. Eisman, welcome and please proceed.

STATEMENT OF STEVEN EISMAN, PORTFOLIO MANAGER, FRONTPOINT FINANCIAL SERVICES FUND, LP, NEW YORK, NY

Mr. EISMAN. Good morning, Chairman Harkin and Ranking Member Enzi, and members of the committee. Thank you for inviting me to testify this morning.

My name is Steve Eisman and I am the Portfolio Manager of the FrontPoint Financial Services Fund. My firm has spent a great deal of time studying the for-profit education industry and understanding how it operates and derives its revenue. It has been an eye-opening experience.

My testimony comes today largely from a recent presentation I gave at an investor conference entitled "Subprime Goes to College." The for-profit industry has grown at an extreme and unusual rate driven by easy access to Government-sponsored debt in the form of title IV student loans, where the credit is guaranteed by the Government. Thus, the Government, the students, and the taxpayer bear all the risks and the for-profit industry reaps all the rewards. This is similar to the subprime mortgage sector in that the subprime originators bore far less risk than the investors in their mortgage paper.

The for-profit education industry accounts for 9 percent of the students, 25 percent of all title IV disbursements, and 44 percent of all defaults. There is something wrong with this statistical progression.

At many major for-profit institutions, Federal title IV loan and grant dollars now comprise nearly close to 90 percent of all revenues, and this growth has driven even more spectacular company profitability and wealth creation for industry executives.

For example, ITT Educational Services, one of the larger companies in the industry, has a roughly 40 percent operating margin versus the 7 to 12 percent margins of other companies that receive major Government contracts. ITT is more profitable on a margin basis than even Apple. This growth is purely a function of Government largesse, as title IV has accounted for more than 100 percent of revenue growth.

One major reason why the industry has taken an ever-increasing share of Government dollars is that it seeks to recruit those with the greatest financial need and put them in high-cost institutions. This formula maximizes the amount of title IV loans and grants that these students receive. If the industry, in fact, educated its students and got them good jobs and enabled them to receive higher incomes and to pay off the student loans, everything I just said would be irrelevant.

Let us first look at some dropout data. I have presented to the committee a very long PowerPoint presentation. If you look through it, you will see that we calculate dropout rates of most schools ranging anywhere from 50 percent to 100 percent per annum. How good could the product be if dropout rates are so stratospheric? These statistics are quite alarming, especially given the enormous amount of debt most for-profit students must borrow to attend these schools.

We have every expectation that the industry's default rates are about to explode. Because of the growth in the industry and the increasing search for more students, we are now back to late 1980's levels of lending to for-profit students on a per-student basis. Back then, defaults were off the charts and fraud was commonplace.

How do schools such as this stay in business? The answer is to control the accreditation process. The scandal here is exactly akin to the rating agency role in subprime securitizations. Accreditation bodies are nongovernmental, nonprofit, peer reviewing groups. Schools must earn and maintain proper accreditation to remain eligible for title IV programs.

The relationship of the for-profit education industry and the national accrediting boards is, in my view, similar to the relationship between the rating agencies and the investment banks. There, Wall Street paid the rating agencies handsomely for ratings on subprime securitizations that turned out to be euphemistically overly optimistic. Here, the industry, we believe, controls the national accrediting boards by actually sitting on the boards of those very same institutions. The lunatics are running the asylum.

The core of the problem in both the subprime and the for-profit education industry in my view is a problem of incentives. In subprime brokers were incentivized to make as many loans as possible because they were paid on volume. They faced no risk of loss due to bad decisionmaking because the loans were sold off to investors. In for-profit education, every segment of the institution is incentivized to enroll as many students as possible. Recruiters are paid on volume. Instructors are compensated based on completions, and executives and shareholders are paid based on growth and none bear the risk of losses should the students not get their money's worth or, even worse, default on their loans. The incentives to grow far outweigh the incentives to educate, and thus, like in subprime, rather than having a fundamentally sound industry with a few bad actors, it is my belief you have a fundamentally unsound industry but with a few good ones.

Let me end by driving this subprime analogy to its ultimate conclusion. By late 2004, it was clear to me and my partners that the mortgage industry had lost its mind and a society-wide calamity was going to occur. It was like watching a train wreck with no ability to stop it.

Are we going to do this all over again? We have just loaded up one generation of Americans with mortgage debt they cannot afford to pay back. Are we going to load up a new generation with student loan debt that they cannot afford to pay back?

The industry is now 25 percent of title IV money, quickly on its way to 40 percent. If it is policed, the problem can be stopped. It is my hope that this Administration and the committee sees the nature of the problem and begins to act now.

If nothing is done, then we are on the cusp of what I believe is a new social disaster. If present trends continue, over the next 10 years almost $500 billion of title IV loans will have been funneled to this industry. My team and I estimate total defaults of approximately $275 billion and because of fees associated with defaults, for-profit students will owe approximately $300 billion on defaulted loans over the next 10 years.

Mr. Chairman and the committee, I would be happy to answer any questions that you have.

[The prepared statement of Mr. Eisman follows:]

PREPARED STATEMENT OF STEVEN EISMAN

Good morning. Chairman Harkin and members of the committee, thank you for inviting me to testify this morning. My name is Steven Eisman and I am the portfolio manager of the FrontPoint Financial Services Fund. My firm has spent a great deal of time studying the for-profit education industry and understanding how it operates and derives its revenue. It has been an eye opening experience. Until recently, I thought that there would never again be an opportunity to be involved with an industry as socially destructive as the subprime mortgage industry. I was wrong. The for-profit education industry has proven equal to the task.

My testimony today comes largely from a recent presentation I gave at an investor conference entitled "Subprime goes to College." The for-profit industry has grown at an extreme and unusual rate, driven by easy access to government-sponsored debt in the form of title IV student loans, where the credit is guaranteed by the government. Thus, the government, the students and the taxpayer bear all the risk and the for-profit industry reaps all the rewards. This is similar to the subprime mortgage sector in that the subprime originators bore far less risk than the investors in their mortgage paper.

The for-profit education industry accounts for 9 percent of the students, 25 percent of all title IV disbursements but 44 percent of all defaults. And the President of the largest for-profit institution is paid nearly 25x the compensation level of the President of Harvard. There is something wrong with this statistical progression.

In the past 10 years, the for-profit education industry has grown 5–10 times the historical rate of traditional post-secondary education. From 1987 through 2000, the amount of total title IV dollars received by students of for-profit schools fluctuated between $2 and $4 billion per annum. But when the Bush administration took over the reigns of government, the DOE gutted many of the rules that governed the conduct of this industry. Once the floodgates were opened, the industry embarked on 10 years of unrestricted massive growth.

Federal dollars flowing to the industry exploded to over $21 billion, a 450 percent increase.

At many major for-profit institutions, Federal title IV loan and grant dollars now comprise close to 90 percent of total revenues, up significantly vs. 2001. And this growth has driven even more spectacular company profitability and wealth creation for industry executives. For example, ITT Educational Services (ESI), one of the larger companies in the industry, has a roughly 40 percent operating margin vs. the 7 percent–12 percent margins of other companies that receive major government contracts. ESI is more profitable on a margin basis than even Apple.

This growth is purely a function of government largesse, as title IV has accounted for more than 100 percent of revenue growth. Here is one of the more upsetting statistics. In fiscal 2009, Apollo, the largest company in the industry, grew total revenues by $833 million. Of that amount, $1.1 billion came from title IV federally funded student loans and grants. More than 100 percent of the revenue growth came from the Federal Government. But of this incremental $1.1 billion in Federal loan and grant dollars, the company spent only an incremental $99 million on faculty compensation and instructional costs—that's 9 cents on every dollar received from the government going towards actual education. The rest went to marketing and paying the executives.

One major reason why the industry has taken an ever-increasing share of government dollars is that it has turned the typical education model on its head. And here is where the subprime analogy becomes very clear.

There is a traditional relationship between matching means and cost in education. Typically, families of lesser financial means seek lower cost institutions in order to maximize the available title IV loans and grants—thereby getting the most out of every dollar and minimizing debt burdens. Families with greater financial resources often seek higher cost institutions because they can afford it more easily.

The for-profit model seeks to recruit those with the greatest financial need and put them in high cost institutions. This formula maximizes the amount of title IV loans and grants that these students receive.

With billboards lining the poorest neighborhoods in America and recruiters trolling casinos and homeless shelters (and I mean that literally), the for-profits have become increasingly adept at pitching the dream of a better life and higher earnings to the most vulnerable of society.

But if the industry in fact educated its students and got them good jobs that enabled them to receive higher incomes and to pay off their student loans, everything I've just said would be irrelevant.

So the key question to ask is—what do these students get for their education? In many cases, NOT much, not much at all.

Here is an example of an education promised and never delivered. In the Powerpoint presentation before you, there is an article detailing a Corinthian Colleges-owned Everest College campus in California whose students paid $16,000 for an 8-month course in medical assisting. Upon nearing completion, the students learned that not only would their credits not transfer to any community or 4-year college, but also that their degree is not recognized by the American Association for Medical Assistants. Hospitals refuse to even interview graduates.

But let's leave aside the anecdotal evidence of this poor quality of education. After all the industry constantly argues that there will always be a few bad apples. So let's put aside the anecdotes and just look at the statistics. If the industry provided the right services, drop out rates and default rates should be low.

Let's first look at drop out rates. Companies don't fully disclose graduation rates, but using both DOE data, company-provided information and admittedly some of our own assumptions regarding the level of transfer students, we calculate drop out rates at most for-profit schools are 50 percent+ per year.

How good could the product be if drop out rates are so stratospheric? These statistics are quite alarming, especially given the enormous amount of debt most for-profit students must borrow to attend school.

We have every expectation that the industry's default rates are about to explode. Because of the growth in the industry and the increasing search for more students, we are now back to late 1980s levels of lending to for-profit students on a per student basis. Back then defaults were off the charts and fraud was commonplace.

Default rates are already starting to skyrocket. It's just like subprime—which grew at any cost and kept weakening its underwriting standards to grow.

By the way, the default rates the industry reports are artificially low. There are ways the industry can and does manipulate the data to make their default rates look better.

But don't take my word for it. The industry is quite clear what it thinks the default rates truly are. ESI and COCO supplement title IV loans with their own private loans. And they provision 50 percent–60 percent up front for those loans. Believe me, when a student defaults on his or her private loans, they are defaulting on their title IV loans too.

There is no such thing as a profitable loan where the loan loss provision is 50 percent–60 percent. So why do these companies make unprofitable non-FFELP loans? The private loan is much smaller than the FFELP loan and the companies don't bear any losses on FFELP loans, only on private loans. As a result, the losses on the private loans are just loss leaders to get more students in the door.

Let me just pause here for a second to discuss manipulation of statistics. There are two key statistics. No school can get more than 90 percent of its revenue from the government and 2-year cohort default rates cannot exceed 25 percent for 3 consecutive years. Failure to comply with either of these rules and you lose title IV eligibility. Lose title IV eligibility and you're company's a zero.

With respect to the default statistics, it is my belief that they are manipulated. Since the rule currently revolves around the 2-year default rate, the companies have every incentive to keep that statistic below 25 percent.

Isn't it amazing that Apollo's percentage of revenue from title IV is 89 percent and not over 90 percent. How lucky can they be? We believe (and many recent lawsuits support) that schools actively manipulate the receipt, disbursement and especially the return of title IV dollars to their students to remain under the 90/10 threshold. And again, unprofitable private student loans is also a way to keep below the 90/10 threshold.

The bottom line is that as long as the government continues to flood the for-profit education industry with loan dollars AND the risk for these loans is borne solely by the students and the government, THEN the industry has every incentive to grow at all costs, compensate employees based on enrollment, influence key regulatory bodies and manipulate reported statistics—ALL TO MAINTAIN ACCESS TO THE GOVERNMENT'S MONEY.

In a sense, these companies are marketing machines masquerading as universities. And when the Bush administration eliminated almost all the restrictions on how the industry is allowed to market, the machine went into overdrive.

How do such schools stay in business? The answer is to control the accreditation process. The scandal here is exactly akin to the rating agency role in subprime securitizations.

There are two kinds of accreditation—national and regional. Accreditation bodies are non-governmental, non-profit peer-reviewing groups. Schools must earn and maintain proper accreditation to remain eligible for title IV programs. The relationship of the for-profit education industry and the national accrediting boards is, in my view, similar to the relationship between the rating agencies and investment banks. There, Wall Street paid the rating agencies handsomely for ratings on subprime securitizations that turned out to be overly optimistic. Here, the industry, we believe, controls the national accrediting bodies by actually sitting on the boards of those very same institutions. The lunatics are running the asylum.

Historically, most for-profit schools are nationally accredited but national accreditation holds less value than regional accreditation. The latest trend of for-profit institutions is to acquire the dearly coveted Regional Accreditation through the outright purchase of small, financially distressed non-profit institutions and then put that school on-line. In March 2005, BPI acquired the regionally accredited Franciscan University of the Prairies and renamed it Ashford University. On the date of purchase, Franciscan (now Ashford) had 312 students. BPI took that school online and at the end of 2009 it had 54,000 students.

When I was researching the subprime mortgage industry in 2005 and 2006, I found that not every lender was bad—just most of them. A few subprime lenders actually used considerable discretion and really tried to make good loans to lower-income borrowers that made sense for them. In the for-profit industry, the same is probably true. There are probably a few good institutions that truly try to educate their students.

The core of the problem in both the subprime and the for-profit education industries is a problem of incentives. In subprime, brokers were incentivized to make as many loans as possible because they were paid on volume. They faced no risk of loss due to bad decisionmaking because the loans were sold off to investors. In for-profit education, every segment of the institution is incentivized to enroll as many students as possible—recruiters are paid on volume, instructors are compensated based on completions, and executives and shareholders are paid based on growth. None bear the risk of loss should the students not get their money's worth or even worse, default on their loans. The incentives to grow far outweigh the incentives to educate. And thus, like in subprime lending, rather than having a fundamentally sound industry with a few bad actors, you have a fundamentally unsound industry with few good ones.

Therefore, the best way to change this industry's conduct is to change the law and force it to bear some of the losses that it creates. In my power-point presentation, I show what would happen to several companies if they bore various loss percentages. The industry still stays very profitable. Just less profitable.

Let me end by driving the subprime analogy to its ultimate conclusion. By late 2004, it was clear to me and my partners that the mortgage industry had lost its mind and a society-wide calamity was going to occur. It was like watching a train wreck with no ability to stop it. Who could you complain to, The rating agencies?—They were part of the machine; Alan Greenspan?—He was busy making speeches that every American should take out an ARM mortgage loan; or The OCC?—Its chairman, John Dugan, was busy suing State attorney generals, preventing them from even investigating the subprime mortgage industry.

Are we going to do this all over again? We just loaded up one generation of Americans with mortgage debt they can't afford to pay back. Are we going to load up a new generation with student loan debt they can never afford to pay back. The industry is now 25 percent of title IV money on its way to 40 percent. If its growth is stopped now and it is policed, the problem can be stopped. It is my hope that this Administration sees the nature of the problem and begins to act now.

But if nothing is done, then we are on the cusp of a new social disaster. If present trends continue, over the next 10 years almost $500 billion of title IV loans will have been funneled to this industry. We estimate total defaults of $275 billion, and because of fees associated with defaults, for-profit students will owe $330 billion on defaulted loans over the next 10 years.

Mr. Chairman and members of the committee, I will be happy to answer any questions that you have.

[June 24, 2010]

HELP Oversight Hearings on For-Profit Colleges

(Presentation by Steven Eisman—FrontPoint Partners)

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FOR PROFIT EDUCATION: SUBPRIME GOES TO COLLEGE*

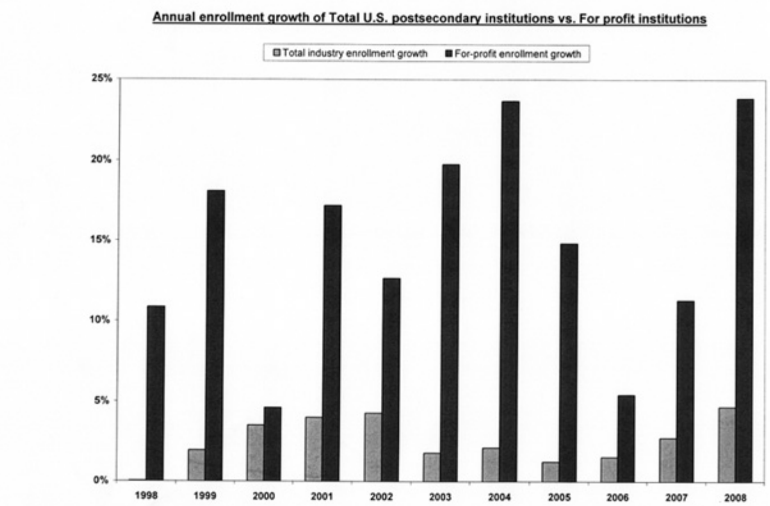
BEFORE WE BEGIN, SOME STATISTICS . . .

1. Tuition and fees at private for-profit institutions averaged $14,174 in 2008–2009. This is more than twice the average in-state tuition and fees at public 4-yr institutions ($7,020/yr) and more than 5 times the annual tuition and fees at public 2-yr colleges ($2,544/yr). This implies that you could send 5 students through community college for every 1 student sent to a for-profit school.
2. In 2007–2008, 88 percent of students in the for-profit sector took out Stafford Loans, compared to 42 percent of public 4-year students, and only 10 percent of public 2-year college students. For every one community college student that borrows Federal Financial Aid, there are 9 for-profit students who borrow.
3. Students at for-profit institutions received more than 20 percent of all Pell Grant Aid in 2008–2009. Roughly 94 percent of all Pell Grants were awarded to households with less than $50,000 in annual income; 62 percent of all Pell awards went to families with less than $30,000 in annual income.
4. Of bachelor degree recipients at for-profit schools, 57 percent graduate with $30,000 or more in debt, versus 12 percent of public school bachelor degree grads.
5. **For-profit institutions now account for almost 10 percent of all student enrollments, 25 percent of all Federal Financial Aid disbursements, and 44 percent of all student loan defaults.**

* Source: College Board, Trends in College Pricing and Trends in Student Aid 2009: U.S. Dept of Education trial 3-yr default data.

Background: NOT YOUR TYPICAL GROWTH STORY . . .

In the last 10 years, the for-profit education industry has grown at 5-10 times the historical rate of traditional post-secondary education



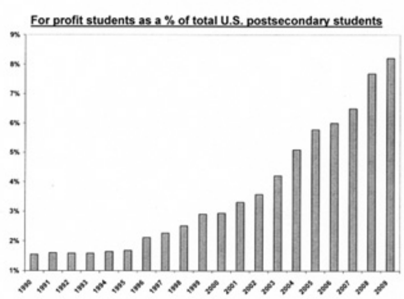
Source: National Center for Education Statistics, 2009

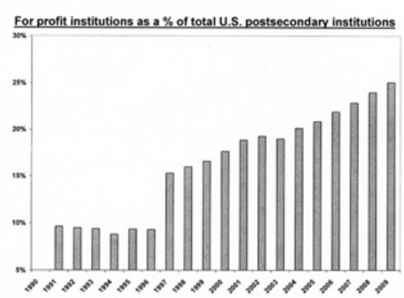
Which has drastically accelerated the for-profit's share of total US post-secondary enrollments and led to the rapid growth of for-profit institutions

In 1990…

< 1% of all students attended for-profit colleges…

< 10% of all schools were for-profit…





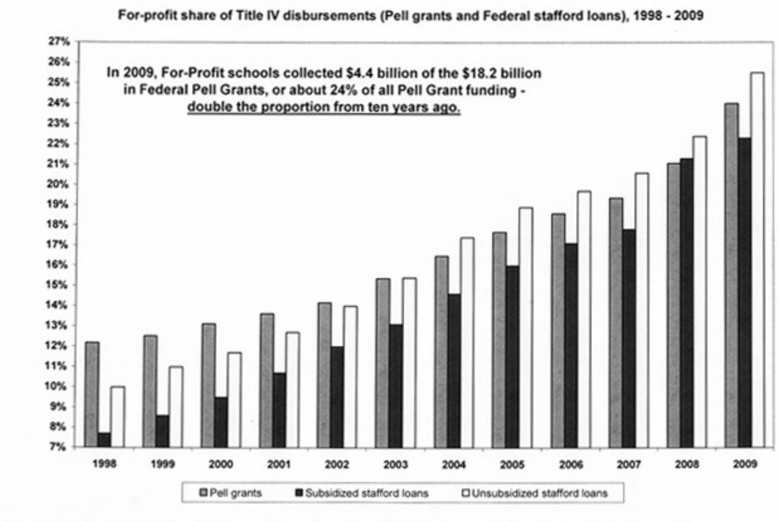
In 2009…

almost 10% of students attend for-profit colleges

25% of schools are for-profit institutions

Source: National Center for Education Statistics, 2009

Despite being less than 10% of total enrollments, for-profits now claim nearly 25% of the $89 billion of Federal Title IV student loans and grant disbursements



Source: College Board, National Consumer Law Center

From 1987 through 2000, the amount of total Title IV dollars given to for-profit schools fluctuated between $2 billion and $4 billion dollars…

Total Federal disbursements of Title IV Stafford Loans and Pell Grants, 1987 - 2009

Dollars in billions

Year	Total Pell Grants	Total Stafford Loans	For profit Pell Grants	For profit Stafford Loans	Total For profit	For profit share Pell Grants	For profit share Stafford Loans
1987	$3.5	$7.3	$0.9	$1.8	$2.7	25%	25%
1988	$3.8	$8.0	$1.0	$2.1	$3.1	27%	27%
1989	$4.5	$8.2	$1.1	$2.3	$3.4	24%	28%
1990	$4.8	$8.3	$1.1	$1.9	$3.0	23%	23%
1991	$4.9	$8.8	$1.1	$1.5	$2.6	22%	17%
1992	$5.8	$9.5	$1.2	$1.3	$2.5	21%	14%
1993	$6.2	$9.9	$1.1	$1.0	$2.1	18%	10%
1994	$5.7	$14.1	$0.9	$1.4	$2.3	15%	10%
1995	$5.5	$19.9	$0.7	$2.0	$2.7	13%	10%
1996	$5.5	$22.8	$0.7	$1.9	$2.6	13%	8%
1997	$5.8	$25.1	$0.7	$2.2	$2.9	12%	9%
1998	$6.3	$26.3	$0.8	$2.3	$3.0	12%	9%
1999	$7.2	$27.2	$0.9	$2.6	$3.5	13%	10%
2000	$7.2	$28.4	$0.9	$3.0	$3.9	13%	10%
2001	**$8.0**	**$29.5**	**$1.1**	**$3.4**	**$4.5**	**14%**	**12%**
2002	**$10.0**	**$32.1**	**$1.4**	**$4.1**	**$5.6**	**14%**	**13%**
2003	**$11.6**	**$36.5**	**$1.8**	**$5.2**	**$7.0**	**15%**	**14%**
2004	**$12.7**	**$41.6**	**$2.1**	**$6.6**	**$8.7**	**16%**	**16%**
2005	**$13.1**	**$45.7**	**$2.3**	**$7.9**	**$10.3**	**18%**	**17%**
2006	**$12.7**	**$48.0**	**$2.4**	**$8.8**	**$11.2**	**19%**	**18%**
2007	**$12.8**	**$49.4**	**$2.5**	**$9.5**	**$12.0**	**19%**	**19%**
2008	**$14.7**	**$56.8**	**$3.1**	**$12.4**	**$15.5**	**21%**	**22%**
2009	**$18.2**	**$70.9**	**$4.4**	**$17.0**	**$21.4**	**24%**	**24%**

Pell Grants quadrupled from $1 billion to $4 billion

Total Title IV aid grew from under $4 billion in 2000 to over $21 billion in 2009

…but with the leniency shown to the industry under the Bush Administration, the dollars that flowed to the industry exploded to over $21 billion, a 450% increase

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At the current pace of growth, For-profit schools will claim 20% of enrollments, represent 40% of schools and draw over 40% of all Title IV aid in 10 years

For-profit share of enrollment, schools, Pell grants and Loans, 2009 - 2020

	For-profits % share of:					Total Title IV disbursements ($ billions)	
Year	Total Enrollment	Total Schools	Pell Grants	Stafford Loans	Total Title IV	Non-profits	For-profits
2007	7%	23%	19%	19%	19%	$50.2	$12.0
2008	8%	24%	21%	22%	22%	$56.0	$15.5
2009	**8%**	**25%**	**24%**	**24%**	**24%**	**$67.6**	**$21.4**
2010	9%	26%	25%	25%	25%	$71.9	$24.3
2011	10%	27%	26%	27%	27%	$76.5	$27.7
2012	10%	29%	27%	28%	28%	$81.2	$31.5
2013	11%	30%	28%	30%	29%	$86.2	$35.8
2014	12%	31%	30%	31%	31%	$91.4	$40.8
2015	13%	32%	31%	33%	32%	$96.9	$46.4
2016	14%	34%	32%	35%	34%	$102.5	$52.8
2017	16%	35%	33%	36%	36%	$108.4	$60.1
2018	17%	37%	35%	38%	38%	$114.4	$68.5
2019	18%	39%	36%	40%	40%	$120.6	$77.9
2020	**20%**	**40%**	**38%**	**43%**	**42%**	**$126.9**	**$88.8**

Key Assumptions for Projections

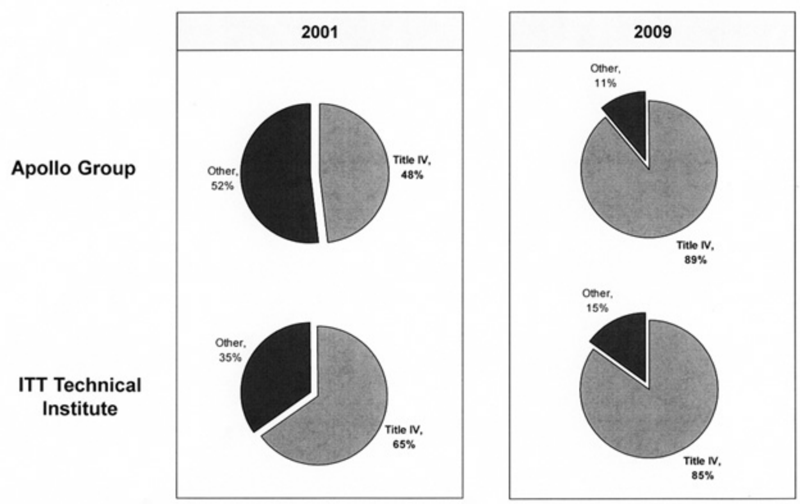
- Total post-secondary enrollment grows at 1.5% per year
- For-profit enrollment grows at 10% per year (10-yr avg is 14.4% annually)
- Total post-secondary institutions grow at 1.5% per year; For-profit institutions grow at 6% per year (both long-term avg since 1990)
- Avg grant and loan amounts per student grows at 5-yr historical avg growth rates, by institution type

Based on current financials of For-profit institutions, less than 30% of the incremental $67 billion (annually) in Title IV dollars will go towards educating students…

…nearly $50 billion (annually) will go toward non-faculty and executive compensation and company profits

Source: College Board, US Dept of Education, industry estimates

At many major for-profit institutions, federal Title IV loan and grant dollars now comprise close to 90% of total revenues



Note: Title IV figures include 2008 unsubsidized loan limit increases on a pro-forma basis

Source: Company-reported financials

This growth has driven even more spectacular company profitability and wealth creation for industry executives and shareholders

ITT Technical Institute (ESI) Profitability has grown 5-fold since 2006

The top 5 executives at ESI, Corinthian colleges (COCO) and Apollo Group (APOL) <u>collectively earned over $130 million</u> from 2007-2009

Top 5 executives total compensation

	ESI	COCO	APOL	Total
2007	$9,834,695	$4,938,982	$10,441,170	$25,214,847
2008	$8,923,791	$8,849,386	$26,766,979	$44,540,156
2009	$14,366,540	$11,222,377	$34,707,377	$60,296,294
3-yr total comp	**$33,125,026**	**$25,010,745**	**$71,915,526**	**$130,051,297**

Total comp = salary, bonus, stock awards, option awards, non-equity incentives

Source: Company-reported financials and proxy statements

In addition, for-profit executives earn 10 to 20 times as much as their non-profit counterparts

	2008 - 2009 Enrollment	2009 - 2010 Average Annual Tuition and Fees	2008-2009 President / CEO Total Compensation
Private			
Harvard	19,230	$37,012	**$822,011**
Yale	11,446	$36,500	**$911,250**
Stanford	17,833	$37,881	**$697,475**
Average		***$37,131***	***$810,245***
State Schools			
Penn State	53,715	$22,278	**$642,760**
UCLA	39,650	$29,897	**$424,916**
Virginia	24,541	$31,870	**$773,648**
Average		***$28,015***	***$613,775***
Community Colleges			
Valencia CC (Florida)	17,795	$2,091	**$439,135**
Florida CC at Jacksonville	12,685	$1,714	**$403,205**
South Texas College	10,249	$1,996	**$370,460**
Average		***$1,934***	***$404,267***
For Profits			
APOL	411,575	$12,693	**$18,599,587**
ESI	80,766	$22,734	**$7,600,000**
COCO	86,088	$14,336	**$5,440,951**
CECO	116,800	$17,825	**$5,440,951**
Average		***$16,897***	***$9,270,372***

The co-CEOs at Apollo earned roughly 23x as much as the President of Harvard.

Notes:
- Average tuition and fees include in-state and out-of-state costs
- President / CEO total comp includes salary, bonus/deferred comp, and car/house/other (for non-profit schools)
- South Texas CC comp estimated using Lone Star College system executive comp
- APOL compensation figure includes total comp for co-CEOs

Source: Company-reported financials and proxy statements; National Center for Education Statistics, The Chronicle of Higher Education, Business week survey, US News & World Report college survey, Harvard Crimson News, Yale Daily news, Company-reported financials

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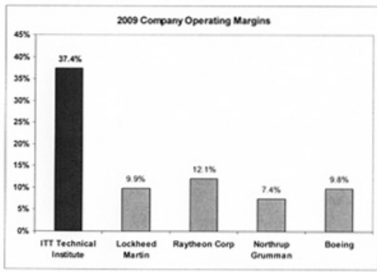
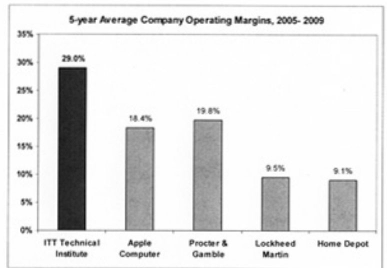
Now many of the US for-profit education companies are among the most profitable businesses in the world

Other industries of strategic importance to the U.S. which are funded by taxpayer dollars are restricted to lower operating margins on contracts…





So how can government-funded education companies earn substantially more money than nearly every other major US business?

Source: Company-reported financials

The answer lies primarily in government largesse, as Title IV has accounted for more than 100% of the revenue growth of these companies

Apollo Group (APOL)	2007	2008	2009
Total revenues	$2,724	$3,141	$3,974
Year-year growth		$417	$833
% revenue from Title IV*	**65%**	**77%**	**89%**
Title IV revenues	$1,770	$2,419	$3,537
Year-year growth		**$648**	**$1,119**
% revenue growth from Title IV		**155%**	**134%**
Corinthian Colleges (COCO)	**2007**	**2008**	**2009**
Total revenues	$919	$1,069	$1,308
Year-year growth		$149	$239
% revenue from Title IV*	**75%**	**81%**	**89%**
Title IV revenues	$691	$866	$1,163
Year-year growth		**$174**	**$297**
% revenue growth from Title IV		**117%**	**124%**
ITT Technical Institute (ESI)	**2007**	**2008**	**2009**
Total revenues	$758	$870	$1,015
Year-year growth		$112	$146
% revenue from Title IV*	**63%**	**73%**	**85%**
Title IV revenues	$477	$635	$863
Year-year growth		**$157**	**$228**
% revenue growth from Title IV		**141%**	**157%**

Dollars in millions
**Title IV % includes 2008 Stafford unsubsidized loan limit increases*

More than 100% of the revenue growth of APOL, COCO and ESI is driven by an increase in Federal Title IV dollars…

…and of this incremental $1.1 billion in Title IV and $833 million in revenues,

<u>ONLY $99 million or 9%</u> was spent on educational expenses like faculty compensation and other instructional costs

Source: Company-reported financials

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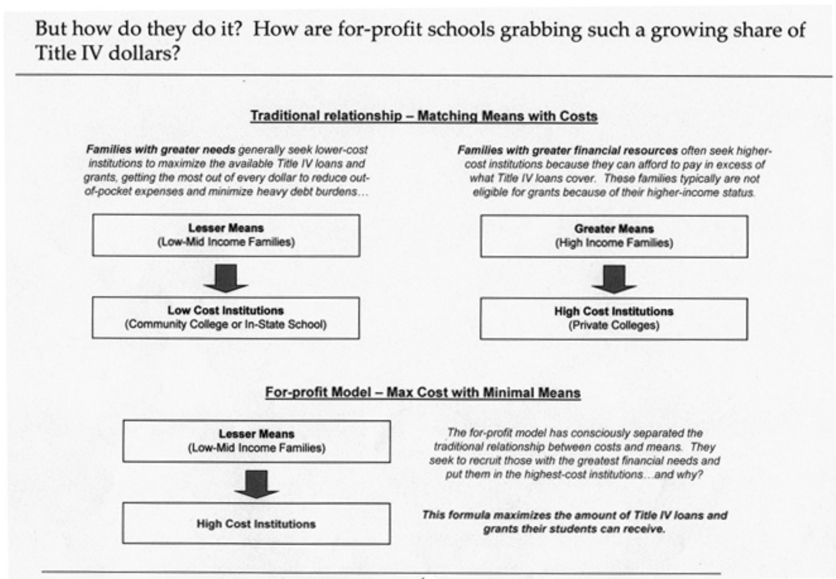


The business model: CHURN 'EM AND BURN 'EM . . .

What results from this combination of profit-motive and lack of quality control is an expensive education that is highly questionable.

[East Bay News, March 19, 2010]

EVEREST COLLEGE STUDENTS ANGRY OVER CERTIFICATION

(By Tomas Roman)

HAYWARD, CA (KGO)—Nearly three dozen Everest College students are furious they haven't received the medical certification they paid for. They refused to go to class until they get some answers.

Whether they attend class or not, the students have to pay $100.

Some of the students have been attending school for 8 months. Three weeks ago they found out that the college does not supply them with a certificate they were told they would get, in order to obtain the medical positions they want.

The students are all studying medical assisting and they paid $16,000 for an 8-month course. They were told the credits earned at the school do not transfer to any community or 4-year college and that has many of them angry.

NEWS ARTICLE SUMMARY

- Students paid $16,000 for an 8-month course in medical assisting at an Everest College campus in Hayward, CA.
- Students recently learned that:
  - **Credits earned at the school do not transfer** to any community or 4-year college.
  - **Degrees granted at the school are not recognized** by the American Association for Medical Assistants (AAMA).
  - **Hospitals will not interview students for potential jobs.**
- **ABC7 talked to the State Medical Assistant's Education Review Board and found** the Hayward Campus is one of several Everest operates in California that the board say is not accredited to credential medical assistants.

Even when assuming reported graduation rates (BIG ASSUMPTION), more than 50% of the student body still drops out every year

APOL	2006	2007	2008	2009
Beginning enrollment	278,300	282,300	313,700	362,100
+ New students	216,600	258,500	288,200	355,800
- Graduates / drop outs	(212,600)	(227,100)	(239,800)	(274,900)
Ending enrollment	282,300	313,700	362,100	443,000
Graduation rate	**28%**	**28%**	**28%**	**28%**
Graduates	61,390	72,338	78,484	83,440
Drop outs	**151,210**	**154,762**	**161,316**	**191,460**
Drops % of avg total enrollment	**54%**	**52%**	**48%**	**48%**

**Assume avg tenure btwn 3-4 years for graduates*

ESI	2006	2007	2008	2009
Beginning enrollment	42,985	46,896	53,027	61,983
+ New students	49,935	54,593	65,313	85,928
- Graduates / drop outs	(46,024)	(48,462)	(56,357)	(67,145)
Ending enrollment	46,896	53,027	61,983	80,766
Graduation rate	**44%**	**44%**	**44%**	**44%**
Graduates	18,449	19,774	21,983	25,302
Drop outs	**27,575**	**28,688**	**34,374**	**41,843**
Drops % of avg total enrollment	**61%**	**57%**	**60%**	**59%**

**Assume avg tenure btwn 2-3 years for graduates*

COCO	2006	2007	2008	2009
Beginning enrollment	66,114	60,964	61,332	69,211
+ New students	92,185	90,105	100,210	117,352
- Graduates / drop outs	(97,335)	(89,737)	(92,331)	(100,475)
Ending enrollment	60,964	61,332	69,211	86,088
Graduation rate	**33%**	**33%**	**33%**	**33%**
Graduates	20,968	20,179	21,540	25,624
Drop outs	**76,367**	**69,558**	**70,791**	**74,851**
Drops % of avg total enrollment	**120%**	**114%**	**108%**	**96%**

**Assume avg tenure btwn 1-2 years for graduates*

Assuming these graduation rates, every year 50%+ of APOL and ESI students drop-out annually.

COCO recycles its entire enrollment annually.

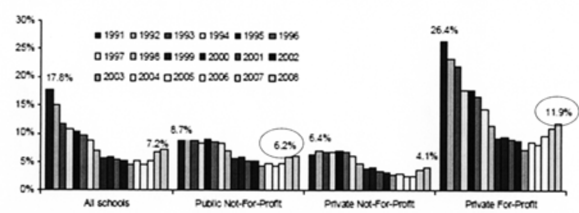
- Graduation rate estimate based on reported National Center of Education Statistics data; figures represent average institutional graduation rates at top 5 largest institutions
- For reference, 2009 Dept of ED reported graduation rates for full-time, first time students at for-profit schools is between 14-22%; these graduation rates have been adjusted to include non first-time, full-time students, still may be largely overstated
- ***Former academic counselors of APOL, ESI and COCO claim that real graduation rates at many locations are in the single digits***

Source: Company-reported financials, IPEDS data (College Navigator), APOL student outcomes report 2009 19

Default rates - historical National Cohort Default rates by institution type

Outside of the mid-90's, when the regulatory environment was more stringent, default rates at For-profit schools are roughly 2x non-profit default rates

Exhibit 2. National Cohort Default Rates by Institution Type (FY1991 - FY2008)



Note: FY2008 data is draft. Source: BMO Capital Markets and US Department of Education National Center for Education Statistics.

Source: NCES industry data and chart taken from recent BMO capital markets research report 20

We are back to late-80's levels of lending to for-profit students, a key leading indicator for loan defaults…back then, fraud was commonplace and regulation was minimal

Traditional vs. For-profit disbursements of Title IV Stafford Loans and Pell Grants, 1987 - 2009

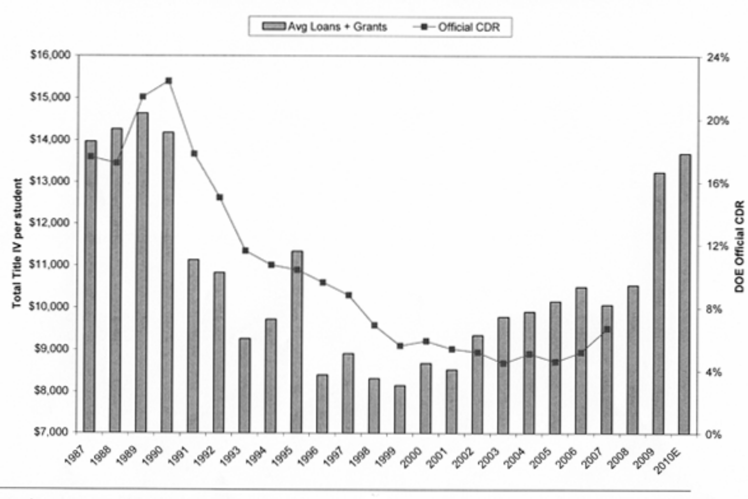
		For-profits % share of:				Average Pell Grant + Loans Per Student		
Year	Total Enrollment	Total Schools	Pell Grants	Stafford Loans	Total Title IV	All schools	Non-profit	For-profit
1987	1%	10%	25%	25%	25%	$842	$643	$13,969
1988	2%	10%	27%	27%	27%	$899	$670	$14,262
1989	2%	10%	24%	28%	27%	$933	$697	$14,640
1990	2%	10%	23%	23%	23%	$948	$740	$14,179
1991	2%	10%	22%	17%	19%	$954	$788	$11,133
1992	2%	9%	21%	14%	16%	$1,053	$895	$10,831
1993	2%	9%	18%	10%	13%	$1,120	$989	$9,263
1994	2%	9%	15%	10%	12%	$1,385	$1,246	$9,723
1995	2%	9%	13%	10%	11%	$1,780	$1,616	$11,339
1996	2%	9%	13%	8%	9%	$1,967	$1,827	$8,402
1997	2%	15%	12%	9%	9%	$2,131	$1,974	$8,910
1998	3%	16%	12%	9%	9%	$2,249	$2,093	$8,317
1999	3%	17%	13%	10%	10%	$2,329	$2,154	$8,152
2000	3%	18%	13%	10%	11%	$2,323	$2,130	$8,681
2001	3%	19%	14%	12%	12%	$2,351	$2,139	$8,533
2002	4%	19%	14%	13%	13%	$2,531	$2,278	$9,349
2003	4%	19%	15%	14%	14%	$2,848	$2,543	$9,786
2004	5%	20%	16%	16%	16%	$3,146	$2,783	$9,909
2005	6%	21%	18%	17%	17%	$3,364	$2,947	$10,153
2006	6%	22%	19%	18%	18%	$3,420	$2,968	$10,498
2007	7%	23%	19%	19%	19%	$3,407	$2,944	$10,074
2008	8%	24%	21%	22%	22%	$3,740	$3,173	$10,541
2009	8%	25%	24%	24%	24%	$4,525	$3,744	$13,247

We must take note that because <u>For-profit students receive 3-5x as much Title IV aid as traditional students</u> and are <u>growing enrollment at 3x the pace of traditional schools</u>, these early warning signs must be addressed now before the impact is felt in the coming years…

Source: College Board

If history is any guide, we will return to late-80's Cohort Default rates in 1-2 years, the worst period of recorded default rates in the history of the DOE

Average Total Loans + Grants per For-profit student vs. DOE Official CDRs, 1987 - 2009



Source: College Board, US Dept of Education

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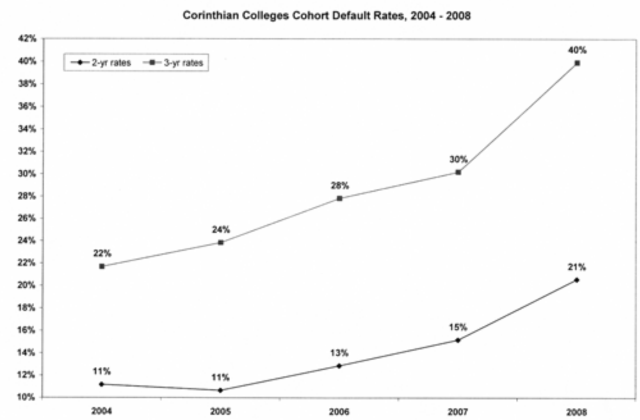
Because of the excessive drop-out rates and high debt burdens of graduates, the credit statistics for government loans at for-profits are deteriorating at an alarming pace…



Source: Company-reported financials, 3-yr rates from DOE Trial 3-yr default rate database; note: 2008 2-yr rates still preliminary and 2008 3-yr rate estimated

…and default rates at for-profit schools are now roughly double the US national average rate of default for all institutions on a 2 and 3-yr basis

2 and 3-yr Cohort Default Rates for large publicly-traded for-profit institutions

	FY05		FY06		FY07	
	2 year	3 year	2 year	3 year	2 year	3 year
Company	**Average**	**Average**	**Average**	**Average**	**Average**	**Average**
Apollo Group*	7.3%	11.4%	7.2%	10.3%	9.3%	15.9%
Bridgepoint**	4.1%	8.8%	4.1%	6.1%	13.3%	17.4%
Capella	2.3%	4.4%	1.5%	3.7%	2.5%	5.5%
Career Education	10.5%	20.9%	8.4%	18.0%	9.3%	19.6%
Corinthian	10.5%	23.3%	12.8%	27.2%	15.0%	29.8%
DeVry***	6.6%	13.4%	7.3%	13.8%	9.0%	17.1%
EDMC	5.0%	11.7%	5.4%	11.4%	8.0%	14.6%
ITT	9.3%	21.0%	9.5%	20.4%	11.6%	24.1%
Lincoln	8.7%	21.1%	12.3%	24.4%	13.4%	25.7%
Strayer	3.9%	9.3%	3.8%	10.5%	6.0%	13.0%
UTI	5.5%	13.8%	7.2%	16.1%	6.6%	13.8%
For-profit average	*8.2%*		*9.7%*		*11.0%*	*21.2%*
National average	*4.6%*		*5.2%*		*6.7%*	*11.8%*

Source: Company reports. BofA Merrill Lynch Global Research. *Default rates for UOP only.

Currently, for-profit institutions provision 50 – 60% on loans they make to their own students…these are students who already have Title IV loans

- Companies are provisioning for more than 50%+ loss on loans they make to students… which means that companies expect more than 1 out of every 2 loans to go bad
- But absent any regulatory threat, these companies could care less if every loan they made went bad because the per-student profitability of their models is so high!
- Both companies would still be hugely profitable on a per-student basis even with a 100% losses on every loan they made

	ESI	COCO
Title IV loans, grants and private loans	$16,959	$14,443
Internal company loan per student	**$2,100**	**$1,770**
Tuition per student (2009)	$19,059	$16,213
Provision for loan losses (%)	**50%**	**58%**
Expected losses on internal loans	**($1,050)**	**($1,027)**
Operating profit per student	**$8,792**	**$4,282**
Multiple of expected losses	8.4 x	4.2 x

Note: OP / student equals change in operating profit over change in total enrollment
Loan loss provisions provided by companies

ESI earns more than 8 times the amount it expects to lose from internal loans to students.

COCO earns more than 4 times its expected loan losses.

REPORTED STATISTICS . . . COHORT DEFAULT RATES (CDRS)

Cohort Default Rates (CDRs)

- CDRs are the percentage of a school's borrowers who enter repayment on a Federal Loan during a particular Federal fiscal year (Oct 1 to Sep 30), and default prior to the end of the next fiscal year.
- Effectively a 2-yr snapshot of the total students in default.
- CDRs are an important measure of quality—if default rates breach the federally mandated threshold of 25 percent (soon to be 30 percent), schools can lose eligibility to title IV.

Can Easily Be Manipulated to Mask True Defaults

- Deferrals and forbearances used en mass to carry students over the 2-year reported timeframe.
- Schools used to partner with Sallie Mae and other lenders to delay or manage down defaults through the 2-year timeframe in exchange for guaranteed loan volumes.
- Schools pay down student government loans with internal money and collect directly from students.

REPORTED STATISTICS . . . THE 90/10 RULE

The 90/10 rule

- 90/10 says a for-profit may become ineligible to participate in title IV programs if it derives more than 90 percent of its cash basis revenue from title IV programs.
- Applies only to for-profit institutions, effectively a cap on total title IV dollars that can flow to a company as a percentage of revenues.
- Intended to create a structural boundary for growth from title IV dollars.

Can Also Be Manipulated

- Over-returning title IV dollars to the government when students drop out and then billing students directly.

Pursue alternative government entitlement programs not counted under the title IV umbrella (military educational loans grants).

When all else fails, raise tuition! Students will have to find alternative (non-title IV) funding sources to close the gap between tuition and the amount of total title IV loans.

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REPORTED STATISTICS . . . COMPLETIONS AND PLACEMENTS

Completions (Graduation Stats)

Company-reported metric that measures the number of students who complete a program (graduate) in 150 percent of normal time (for example, 6 years of graduation data for a 4-year bachelors program).

- Non-traditional student body doesn't graduate together, and often takes much longer than normal to complete, so hard to understand actual graduation by class.
- No independent verification of graduates.

Placements (Employment Stats)

- Company-reported metric that measures the number of students who are placed in a job they were trained for (gainful employment).
- This is gainful employment?
  - Trained nurses become janitors at hospitals.
  - Homeland security degree grads become nighttime security guards at shopping malls.
- And for those grads who cannot find employment . . . hire them! Most schools hire unemployed graduates internally to boost reported placement stats.

As long as the government continues to flood the for-profit education industry with loan dollars,

AND

the risk for these loans is borne SOLELY BY students and the government . . .

THEN

the industry has *every incentive to*:

- Grow at all costs
- Compensate employees based on enrollment
- Influence key regulatory bodies
- Manipulate reported statistics and other regulatory measures

ALL TO MAINTAIN ACCESS TO THE GOVERNMENT'S MONEY.

"Its about the numbers. It will always be about the numbers."
- Bill Brebaugh, head of University of Phoenix Corporate Enrollment

The entire business model of for-profit schools is centered around growing enrollment - it is the single most important measure of growth and profitability, period.

Boiler room tactics:

- *"Every 6 months we get a review that looks at how many students we enrolled and what percentage of them finished their first class. As long as they finish their first class we get full credit and after that they are not our problem…"*
- *"We are under so much pressure we are forced to do anything necessary to get people to fill out an application…"*
- *It's a boiler room – selling education to people who don't really want it."*
  - Ashford University (BPI) former enrollment counselor
- *"The EC [enrollment counselor] review matrix is all smoke and mirrors so we could fly under the radar of the DOE…"*
  - APOL former enrollment counselor

Actual APOL compensation table snapshot

Enrollments at Completion of Half - New EAs	Salary on Old Plan	Salary on New Plan	
0 to 30 enrollments	$28k	$14k to $20k	
31 to 44 enrollments	$28k	$20k to $28k	
45 enrollments	$29k	$29k	$640 per + 1 mo. O.T.
46 enrollments	$29k	$29k	
47 enrollments	$30k	$30k	
48 enrollments	$31k	$30k	$625 per + 1 mo. O.T.
49 enrollments	$32k	$31k	
50 enrollments	$33k	$32k	$640 per + 1 mo. O.T.
51 enrollments	$33k	$32k	
52 enrollments	$34k	$33k	
53 enrollments	$34k	$33k	
54 enrollments	$35k	$34k	
55 enrollments	$35k	$34k	$618 per + 2 mo. O.T.
56 enrollments	$36k	$35k	
57 enrollments	$36k	$35k	
58 enrollments	$37k	$36k	
59 enrollments	$37k	$36k	
60 enrollments	$38k	$37k	$633 per + 2 mo. O.T.
61 enrollments	$38k	$37k	
62 enrollments	$38k	$38k	
63 enrollments	$39k	$38k	
64 enrollments	$39k	$39k	
65 enrollments	$40k	$40k	$615 per + 3 mo. O.T.
66 enrollments	$40k	$41k	
67 enrollments	$40k	$42k	
68 enrollments	$40k	$43k	
69 enrollments	$40k	$44k	
70 enrollments	**$48k**	**$45k**	**$643 per + 3 mo. O.T.**
71 enrollments	$41k	$46k	

Source: Court documents, Hendow & Albertson vs. UOP, filed 2009

Accreditation…the inmates running the asylum

What is Accreditation and why is it important?

- Accreditation helps ensure that education provided by institutions of higher education meets acceptable levels of quality
- The Accreditation bodies are non-governmental (non-profit) peer-reviewing groups
- Schools must earn and maintain proper Accreditation to remain eligible to participate in Title IV Programs
- However, due to the peer-based composition of the Accreditation boards, they cannot function as a truly independent 3rd party review system
- In many instances, **for-profit institution's representatives sit on the boards of their own Accrediting body,** inevitably influencing the approval process and oversight of their own institutions!

The Accrediting Council for Independent Colleges and Schools (ACICS)

ACICS BOARD OF COMMISIONERS

6 of the 16 Board members of ACICS are for-profit representatives

Dr. Gary R. Carlson - Chair Elect
Vice President, Academic Affairs
ITT Technical Institute

Ms. Mary Hale Barry
Senior Vice President, Chief Academic Officer
Kaplan Higher Education

Ms. Jill DeAtley
Vice President of Regulatory Review
Career Education Corporation

Mr. Francis Giglio
Director of Compliance and Regulatory Services
Lincoln Educational Services

Mr. David M. Luce
Assistant Vice President, Accreditation and Licensing
Corinthian Colleges, Inc.

Mr. Roger Swartzwelder
Executive Vice President, General Counsel and Chief Compliance Officer
Education Corporation of America

*Not all 16 Board members shown

We have seen this before…rating agencies and subprime mortgages.
Is for-profit Accreditation the new credit agency scandal?

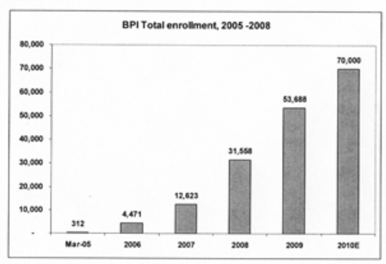
Accreditation…when you can't earn it, buy it

- **The latest trend of for-profit institutions is to acquire the dearly-coveted Regional Accreditation through the outright purchase of small, financially distressed non-profit institutions**
- Regional Accreditation is the highest stamp of quality (Harvard is Regionally Accredited), and usually takes 5-10 years to earn through a long peer review process of educational materials, curriculum, teachers, etc
- But who wants to wait 5 years?!
- Once acquired, these institutions can serve as a shell for the parent organization to funnel in thousands of students and continue the growth cycle…
- Past examples are Bridgepoint buying Regionally-Accredited Franciscan University of the Prairies (renamed Ashford University) and more recent examples are ITT Tech buying Daniel Webster, and Corinthian Colleges buying Heald College

Bridgepoint Education (BPI) – a perfect model…

Timeline

- MARCH 2005 - BPI acquires Regionally-Accredited Franciscan University of the Prairies and renames Ashford University. **Ground enrollment = 312**
- BPI flows students through online platform…grows enrollment by 50,000+ students in 4 years
- **Mgmt expects 70,000+ students by end of 2010**
- **99% students now online, yet school retains its Regional Accreditation**



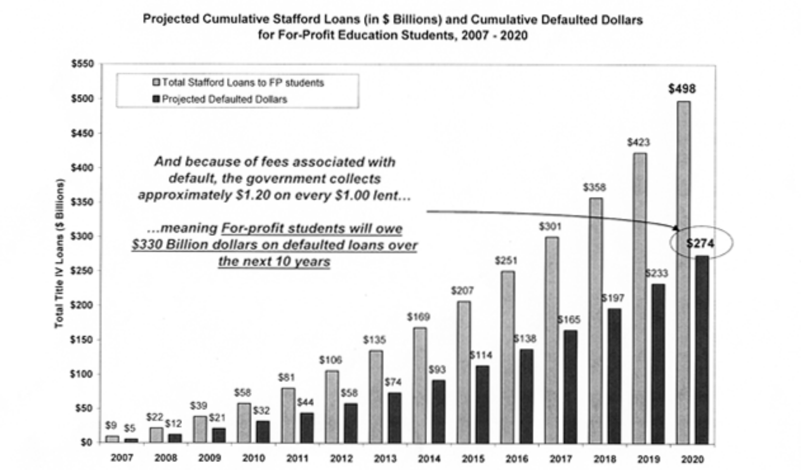
Source: Company-reported financials

The pace of the growth of the for-profit education industry and their growing claim to Federal monies will require greater scrutiny to protect students and the integrity of title IV lending.

- The primary revenue and profitability driver for the for-profit companies is unrestricted access to the U.S. Government's title IV loans and grants.
- For-profit education companies are now among the most profitable businesses in the world due to government largesse.
- Regulations built around company-reported statistics are ineffective, and the Accreditation process for for-profit schools and programs is compromised.
- Disaggregation of risk from reward is the fundamental cause of all problems.

• **Like sub-prime lending, this is an incentives problem—the incentives to grow far outweigh the incentives to educate.**

If these trends continue, we believe the DOE will face nearly $275B in defaults over the next 10 years on a half-a-trillion dollars of lending to the For-Profit Industry



Source: College Board, National Center for Education Statistics, industry estimates

Solutions: Gainful employment

Many of the largest for-profit education companies have raised tuition substantially over the last 4 years

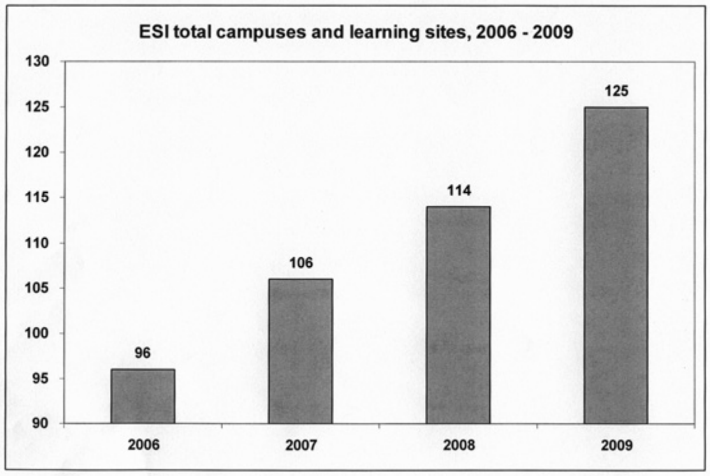
Tuition (revenue per student) growth, 2006 - 2009

	2006	2007	2008	2009	4-yr total growth
APOL					
Revenue per student (tuition)	$9,027	$9,414	$9,748	$10,567	**$1,540**
Growth year-on-year		**4.3%**	**3.6%**	**8.4%**	**17%**
ESI					
Revenue per student (tuition)	$16,922	$17,508	$18,162	$19,059	**$2,137**
Growth year-on-year		**3.5%**	**3.7%**	**4.9%**	**13%**
COCO					
Revenue per student (tuition)	$13,166	$14,212	$15,285	$16,213	**$3,047**
Growth year-on-year		**7.9%**	**7.5%**	**6.1%**	**23%**
3-company avg annual tuition growth		**5.2%**	**4.9%**	**6.5%**	**18%**

For-profit education companies have raised tuition by almost 20% over the last 4 years

Source: Company-reported financials

In addition, companies were rapidly expanding their campus locations during that same time, implying that courses were still very profitable at lower tuition levels



Source: Company-reported financials

Gainful employment at an 8% ratio and 10-yr repayment simply brings us back roughly to 2006 tuition levels when companies were still profitable and growing

	2006 Tuition	2009 Tuition	2009 Tuition with GE
APOL	$9,027	$10,567	$9,820
ESI	$16,922	$19,059	$16,114
COCO	$13,166	$16,213	$11,441

Key Assumptions

- Cost of programs based on reported cost / credit hour and program length
- Percent of degree financed assumes Title IV revenues ex-Pell grants plus private loans
- Gainful employment metric: 8% debt-service and 10-yr repayment period (7.5% average interest rate, assuming 6.8% government loan rate and 12% private loan rate)
- Starting salaries taken from applicable BLS codes, by program category and job type
- Student mix by program level and program type used to calculate average tuition impact

Source: Company-reported financials; estimates for GE impact by FrontPoint

Industry-proposed gainful employment alternatives are so counter-productive to the initial intended outcomes, they border on the absurd

Average annual tuition impact from Gainful Employment combinations

Department of Education proposed solution would reduce tuition and student debt loads by 24% on average

Debt-service-to-income threshold

Repayment period (years)	5%	6%	7%	8%	9%	10%	11%	12%	13%	14%	15%
10	-42%	-36%	-30%	-24%	-18%	-12%	-7%	-1%	5%	11%	17%
11	-39%	-33%	-27%	-21%	-15%	-9%	-2%	4%	10%	16%	23%
12	-38%	-31%	-25%	-18%	-12%	-5%	2%	8%	15%	22%	28%
13	-36%	-29%	-22%	-16%	-9%	-2%	5%	12%	19%	26%	33%
14	-35%	-27%	-20%	-13%	-6%	1%	9%	16%	23%	30%	37%
15	-33%	-26%	-18%	-11%	-3%	4%	11%	19%	27%	34%	42%
16	-32%	-24%	-16%	-9%	-1%	7%	15%	22%	30%	38%	45%
17	-31%	-23%	-15%	-7%	1%	9%	17%	25%	33%	41%	49%
18	-30%	-21%	-13%	-5%	4%	11%	20%	28%	36%	44%	52%
19	-29%	-20%	-12%	-3%	5%	14%	22%	30%	39%	47%	55%
20	-28%	-19%	-10%	-2%	7%	16%	24%	33%	41%	50%	58%

Industry-proposed solutions would allow tuition increases of roughly 20-60%

Source: Company-reported financials for 5 for-profit institutions; estimates for GE impact by FrontPoint; industry estimates taken from letters to Congress

In summary, gainful employment has nothing to do with student access; it has everything to do with making money at for-profit institutions.

• Many for-profit education companies have raised tuition nearly 20 percent over the last 4 years, which has led to extraordinary profitability gains.

• Most schools were rapidly growing enrollments and opening campuses throughout the last 4 years, even though tuition levels were less than they are today.

• A 8 percent/10-year repayment gainful employment measure would force many schools to cut tuition back to 2006 levels to remain in compliance.

• **Industry claims of gainful employment displacing students are an effort to avoid tuition cuts; the reality is that with proper tuition adjustments, very few programs would actually close.**

• **Industry proposed alternatives (12–15-percent ratio, 15–20-year repayment) would allow most every school to raise tuition, and thus will increase student debt loads.**

Solutions: RISK SHARING

What would a risk-sharing agreement look like and what would be some likely outcomes?

• **Make for-profit companies share in a portion of the losses on Federal loans.**

• This will immediately change behavior at every level of the organization because companies will be punished for poor underwriting.

• Aggressive recruiting and tuition hikes slow, companies improve educational quality, and retention.

• Graduation and placements become more important than growth because companies are penalized financially when students fail.

Currently, for-profit institutions provision 50 – 60% on loans they make to their own students…these are students who already have Title IV loans

- Companies are provisioning for more than 50%+ loss on loans they make to students… which means they expect more than 1 out of every 2 loans to go bad
- But absent any regulatory threat, these companies could care less if they every loan they made went bad because the per-student profitability of their models is so high!
- Both companies would still be hugely profitable on a per-student basis even with a 100% losses on every loan they made

	ESI	COCO
Title IV loans, grants and private loans	$16,959	$14,443
Internal company loan per student	**$2,100**	**$1,770**
Tuition per student (2009)	$19,059	$16,213
Provision for loan losses (%)	**50%**	**58%**
Expected losses on internal loans	**($1,050)**	**($1,027)**
Operating profit per student	**$8,792**	**$4,282**
Multiple of expected losses	**8.4 x**	**4.2 x**

Note: OP / student equals change in operating profit over change in total enrollment
Loan loss provisions provided by companies

ESI earns more than 8 times the amount it expects to lose from internal loans to students.

COCO earns more than 4 times its expected loan losses.

Source: Company-reported financials

What if companies shared in losses on Title IV loans? Risk sharing at Apollo Group

APOL is still a profitable business, even when bearing 50% of the loan losses

Dollars in millions		2009 Pro-forma results			
APOL	2009 Fiscal Yr Actual results	10% share loan losses	25% share loan losses	50% share loan losses	75% share loan losses
Total company revenues	$3,974	$3,974	$3,974	$3,974	$3,974
Title IV revenues (ex-grants)	$2,786	$2,786	$2,786	$2,786	$2,786
Loan loss provisions	55%	55%	55%	55%	55%
Total expected loan losses	$1,532	$1,532	$1,532	$1,532	$1,532
Share of risk	**0%**	**10%**	**25%**	**50%**	**75%**
Expected losses to APOL	**$0**	**$153**	**$383**	**$766**	**$1,149**
Operating profit (ex-nonrecurring)	**$1,129**	**$976**	**$746**	**$363**	**($20)**
Operating margin %	**28.4%**	**24.6%**	**18.8%**	**9.1%**	**-0.5%**
Net income	$593	$513	$392	$191	($11)
Assets (less cash, LTM)	$1,623	$1,623	$1,623	$1,623	$1,623
Return on Assets (ROA%)	**36.5%**	**31.6%**	**24.1%**	**11.7%**	**-0.7%**

Note: Loan loss provisions estimated based on current ESI and COCO institutional loan provisions

Source: Company-reported financials

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Risk sharing at ITT Tech

ESI is still a profitable business, even when bearing 75% of the loan losses

Dollars in millions		2009 Pro-forma results			
ESI	2009 Fiscal Yr Actual results	10% share loan losses	25% share loan losses	50% share loan losses	75% share loan losses
Total company revenues	$1,319	$1,319	$1,319	$1,319	$1,319
Title IV revenues (ex-grants)	$1,121	$1,121	$1,121	$1,121	$1,121
Loan loss provisions	55%	55%	55%	55%	55%
Total expected loan losses	$617	$617	$617	$617	$617
Share of risk	**0%**	**10%**	**25%**	**50%**	**75%**
Expected losses to ESI	**$0**	**$62**	**$154**	**$308**	**$463**
Operating profit (ex-nonrecurring)	**$493**	**$431**	**$339**	**$185**	**$30**
Operating margin %	**37.4%**	**32.7%**	**25.7%**	**14.0%**	**2.3%**
Net income	$303	$265	$208	$113	$19
Assets (less cash, LTM)	$1,327	$1,327	$1,327	$1,327	$1,327
Return on Assets (ROA%)	**22.8%**	**20.0%**	**15.7%**	**8.5%**	**1.4%**

Note: Loan loss provisions estimated based on current ESI and COCO institutional loan provisions

Source: Company-reported financials

Risk sharing at Corinthian Colleges

COCO loses money as soon as it has to bear only 20% of the losses

Dollars in millions		2009 Pro-forma results			
COCO	2009 Fiscal Yr Actual results	10% share loan losses	25% share loan losses	50% share loan losses	75% share loan losses
Total company revenues	$1,308	$1,308	$1,308	$1,308	$1,308
Title IV revenues (ex-grants)	$1,163	$1,163	$1,163	$1,163	$1,163
Loan loss provisions	55%	55%	55%	55%	55%
Total expected loan losses	$639	$639	$639	$639	$639
Share of risk	**0%**	**10%**	**25%**	**50%**	**75%**
Expected losses to ESI	**$0**	**$64**	**$160**	**$320**	**$480**
Operating profit (ex-nonrecurring)	**$124**	**$60**	**($36)**	**($196)**	**($356)**
Operating margin %	**9.5%**	**4.6%**	**-2.8%**	**-15.0%**	**-27.2%**
Net income	$69	$33	($20)	($109)	($198)
Assets (less cash, LTM)	$2,573	$1,327	$1,327	$1,327	$1,327
Return on Assets (ROA%)	**2.7%**	**2.5%**	**-1.5%**	**-8.2%**	**-14.9%**

Note: Loan loss provisions estimated based on current ESI and COCO institutional loan provisions

Source: Company-reported financials

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Appendix and Supporting Pages

DOE budgeted lifetime default rates by institution type

DOE Lifetime Default Rates, by Institution Type

Budget Lifetime Default Rate
Calculated based on DOLLARS **for a projected** cohort life of 20 yrs. **Cohort is based on** origination **date.**
As reflected in the latest estimates as of 7/1/09 (Combined Stafford Subsidized and Unsubsidized, DL and FFEL)

Institutional Category	Cohort Yr 2003 Budget Lifetime Default Rate %	Cohort Yr 2004 Budget Lifetime Default Rate %	Cohort Yr 2005 Budget Lifetime Default Rate %	Cohort Yr 2006 Budget Lifetime Default Rate %	Cohort Yr 2007 Budget Lifetime Default Rate %
2 Yr Non Profit	26.4%	27.4%	29.3%	31.2%	31.6%
2 Yr Proprietary	42.5%	42.5%	42.3%	43.5%	47.0%
4 Yr Freshmen & Sophomores	19.3%	20.5%	21.9%	22.2%	22.0%
4 Yr Juniors & Seniors	8.2%	8.5%	9.8%	11.6%	12.3%
Graduate Students	3.4%	3.7%	4.5%	5.9%	6.3%
Overall	11.5%	12.2%	13.2%	14.6%	15.3%

The Department of Education already expects nearly 50% of federal student loans made to for-profit students in recent years to default…

…what will this number look like for 2008 – 2010 cohorts, following the highest enrollment growth period in industry history?

Source: Department of Education Information for Financial Aid Professionals (IFAP)

The CHAIRMAN. Thank you all for your testimony. Very sobering. Mr. Eisman, I would like to start with you. I read your testimony last evening and it was also very eye-opening. There is one paragraph in your testimony that you did not read while you were testifying here, and I would like to read it.

You said,

> "One major reason why the industry has taken an ever-increasing share of Government dollars is that it has turned the typical education model on its head. Here is where the subprime analogy becomes very clear. There is a traditional relationship between matching means and cost in education. Typically families of lesser financial means seek lower-cost institutions in order to maximize the available title IV loans and grants, thereby getting the most out of every dollar and minimizing debt burdens. Families with greater financial resources often seek higher-cost institutions because they can afford it more easily. The for-profit model seeks to recruit those with the greatest financial need and put them in the high-cost institutions."

Is that what you mean by turning it on its head?

Mr. EISMAN. Yes, Mr. Chairman.

The CHAIRMAN. Well, I can associate with that because I remember when I went to college, I knew where I wanted to go to college but I could not afford it. It was always my dream to go to Notre Dame. I could have gotten in. My grades were good enough. I had plenty of good grades, everything like that. But I could not afford it. I went to Iowa State University which I could afford. I understand what you mean about turning that model on its head. Now you go after lower-income students, but they go to the highest-cost students now.

Mr. Eisman, let me get to a different point here. I read about you, of course, in the book, The Big Short. I have followed that. I had never met you personally until just now.

Someone was questioning why you would be here, and some said, "Well, you know, Mr. Eisman has a stake in this." I would like to ask you pointblank, do you have a financial stake in the success or failure of for-profit education companies?

Mr. EISMAN. Thank you for the question, Mr. Chairman.

Yes, I do have a stake. I have been very transparent about my views on this industry and that I have investment positions in this industry.

But let me just be clear. I am a money manager who has the ability to go long and to go short. My clients, my investors are universities, pension funds, and individuals who have given me their life savings and have asked me to give them a decent return with the appropriate amount of risk.

I must tell you I take their charge as a sacred trust, and because I do that, we are fanatics about research because we feel that unless you do great research, you cannot make the appropriate investment decisions. That research process over the years leads us to conclude that sometimes individual companies are good longs and sometimes industries are good longs. Sometimes it leads us to conclude that individual companies are good shorts. Once in a very blue moon, it leads us to conclude that an entire industry is a short.

In 2005 and in 2006, that research process led us to conclude that the entire mortgage sector was a short because it had become delusional and that the rating agencies and the investment banks were in cahoots with the whole process, and we shorted them too. That exact research process has led me to the similar type conclusions about the for-profit education industry.

However, back then in 2006–2007, it never dawned on us that there would even be the possibility of us going to people in authority and saying, "Look, this is what is going to happen." You really should do something about that because there was nobody to talk to. Who would you speak to? Alan Greenspan? He was making speeches telling everybody to take out an adjustable rate mortgage loan and speaking about how great the risk management processes of the investment banks were. John Dugan of the OCC? He was busy suing State Attorney Generals, preventing them from even investigating subprime mortgage companies.

The reason why I am here today is that it is my hope that there is still time to do something, and that is why I am testifying here today.

The CHAIRMAN. Well, I appreciate that. I wanted to get that on the record to find out if, in fact, you have an interest in them failing, why would you be here to try to save them.

Mr. EISMAN. Oh, I do not have an interest in them failing, Senator. I definitely do not want this industry to fail. I think there are very bad things going on in this industry. I think there are some very bad actors and things should be done with that. I do think there is a definite role for this industry, and so a lot of things have to change. I am not here to see the demise of this industry.

The CHAIRMAN. The more that we have come to understand about the subprime mortgage mess, the more we have come to understand that the rating agencies did not do the job they were supposed to do. Now, you mentioned that. And you do see a parallel there? Can you elaborate on that just a little bit more?

Mr. EISMAN. Absolutely, Senator. The rating agencies were paid for their ratings on subprime securitizations. The amount that they were paid was approximately 5 to 10 times per rating than what they would do on normal straight debt. They were usually incentivized to see that the machine, the volume would continue to go on.

With respect to this industry, there are two types of accreditation processes. There is the national accreditation process and there is the regional. As I said in my testimony, most of the for-profit industry is nationally accredited, and what I find problematic about it is that they actually sit on the boards of the national accreditation bodies and I think they control the process.

The more recent innovation by the for-profit education industry is that they have always wanted the more dearly coveted regional accreditation. They have never really been able to get it. What they have done is they have bought—I will give you an example.

There is a school that—BPI, one of the public companies, bought a very small school with 300 students in 2005. That school had, as I said, just 300 students at day of closing. They put it online and today that school has 60,000 students.

The CHAIRMAN. I am very much aware of that school. It is located in my State of Iowa. I am very much aware of that.

In closing, talking about accreditation, would it surprise you to learn that of the schools owned by publicly traded companies, of the 23 that are regionally or partially regionally accredited, 18 are accredited by an agency called the Higher Learning Commission? Eighteen of twenty-three by one accreditation agency. That seems to indicate something to me, that they would all go to that one agency to get accredited. Does that surprise you at all?

Mr. EISMAN. No. In the rating agency world in subprime, they used to call that "forum shopping." If you could not get a good rating from Moody's, you would got to S&P and get the good rating from them.

The CHAIRMAN. Thank you very much, Mr. Eisman.

I have more questions. Ms. Issa I mean to engage you in some questions, Ms. Reiter and Ms. Parrott also, but we will do that in the second round.

Thank you very much.

Senator Enzi.

Senator ENZI. Thank you, Mr. Chairman.

I wish Senator Alexander were here because he was talking about how—in discussions that I have had with him—how when he was the Secretary of Education, one of his jobs was to accredit the rating agencies, and he actually had to fire a rating agency during the time that he was the Secretary. There seems to be some capability to do something about the rating agencies, that it is not quite the same way that the rating agencies work for businesses. We should look into that. I hope that that is not the case.

I will start with Ms. Parrott. I got the impression from the first person to testify, the Inspector General, that 70 percent of the for-profit firms are involved in criminal activity. Would you agree with that figure and would you exclude DeVry from that number?

Ms. PARROTT. Well, absolutely I would exclude DeVry from that number. I think the 70 percent is the percentage of cases, and I think that what we are really looking for is numerically how many cases are there and of those cases, how many are at the for-profit institutions that constitute 50 percent of the total number of institutions in post-secondary education and how many are at for-profits. I would encourage us to get that information.

Clearly, I would not see DeVry as in that, and we have no investigation going on that I am aware of.

Senator ENZI. I appreciate that.

Can you tell me a little bit about your placement rate for graduates and how the placements are related to their field of study?

Ms. PARROTT. Yes, sir. Our students are in business and technology and related health care fields. At DeVry University, for example, our students that actively pursue employment opportunities using our career services get jobs in their educational field of study, on average since 1975, 90 percent of the time within 6 months of graduation.

Senator ENZI. Thank you.

Ms. PARROTT. You are welcome.

Senator ENZI. Since I am limited on time, I will move on to Mr. Eisman and Ms. Reiter. Secretary Duncan recently made the following remarks about for-profit schools.

> "For-profit institutions play a vital role in training young people and adults for jobs, and for-profits will continue to help families secure a better future for themselves. They are helping America meet the President's 2020 goal and helping us meet the growing demand for skills that our public institutions cannot begin to meet alone, especially in these economically challenging times."

Given the need identified by the Secretary, how do we eliminate the bad actors while ensuring that the good actors can fulfill that needed role? How do you suggest that we separate those two out?

Ms. REITER. I think that what we have is a system that is lacking in standards so that we cannot even tell which ones are bad actors and which ones are the good actors. For example, placement records that are reported by some schools to their accrediting agency are not transparent. We do not know the data that those are based on.

As we pointed out, there were some courses that were worse than others at the school we looked it. It may not be a question of bad actors and good actors, but bad programs and good programs. The schools, because they can get money for all of them and because it is to their benefit to show they have more and more students starting, have continued offering programs that even they themselves, if they took an honest look, would say this program just does not cut it.

I think that there are a number of ways in which the regulations are just littered with loopholes that make it easy for schools that want to do bad to do it and make it hard for schools that want to do good to ignore what their competitors are doing.

For example, the incentive compensation that we talked about earlier that people are being paid by the head to bring people in. Back in the late 1980s one of the schools we prosecuted called it "bringing in the fishes." Recently in one Department of Education's administrative actions that I read, I think they called it, if you excuse the language, "putting asses in classes."

There is a way that you can deal with some of these things, and there have been some proposals by the Department in their proposed regs that would deal with it. We could go through an extreme list and I could talk about some of these things, but we do not have time for that here, but I am perfectly happy to work with people in the future. There are ways to segregate which are the bad, which are the good, but it will take a lot of work and a lot of tightening up and making clear what the regulations are that apply.

Senator ENZI. Well, I appreciate the expertise that you have and the past experience that you have and would appreciate it if you would give us a more definitive list in writing. That would be very helpful, much more helpful than a hearing, in fact.

Mr. Eisman.

Mr. EISMAN. Thank you, Senator.

I am not an expert in education and I do not presume to be but I do think I have a good background in loan data and incentives. So I will just confine myself to that.

With respect to defaults, the rule now is you have to maintain your 2-year cohort default rate below a certain level. I think it is 25 percent and then we are going to 3 years I think in a couple years. The data that is put out showing the default rates by the industry on a 2-year basis is without question in mind manipulated by the industry. The industry manages that data down so that they never get close to that threshold. I am quite convinced that that is the case because if you look at 2-year cohort default rates versus 3-year cohort default rates by vintage, you will see that they almost always double or more than double in 1 year. That is an unnatural progression of loan data and it means that the industry is manipulating the data downward in the 2-year rate and letting it go in the 3-year rate. If you move to a 3-year rate, they will manipulate the data to the 3-year rate.

What I would recommend is changing rules so that you do not just look at a 2-year rate or a 3-year rate but a multiyear rate. That would be one recommendation.

The other recommendation I would say is that the incentives of the industry are all messed up because it bears no risk, and I think something that should be looked at is risk-sharing. The industry should bear some of the losses that it creates.

Senator ENZI. Thank you. Very helpful.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Enzi.

I will first call on the Senators who have not been called on before. We will start with Senator Murray.

STATEMENT OF SENATOR MURRAY

Senator MURRAY. Thank you very much, Mr. Chairman, and thank you for having this hearing.

Ms. Issa, I want to start with you and thank you for sharing your story. Why did you choose to attend a for-profit school over a community college or a traditional 4-year school?

Ms. ISSA. Well, I just wanted to go straight to a career rather than figuring out what I wanted to do, what career path I wanted to take.

Senator MURRAY. Did you know of any other options? Did you know it was a for-profit, or were you unaware of that?

Ms. ISSA. No. I was unaware.

Senator MURRAY. Ms. Parrott, thank you. I wanted to ask you what type of services DeVry provides for students who traditionally struggle through college, are first-generation, or minority students, that you would think the traditional schools do not have available.

Ms. PARROTT. Well, let me first say that I believe that there are some traditional institutions who serve very similar populations to ours who do have those services. What we do is provide success coaches for each and every one of our students that work with them on a plethora of areas, including academic support, financial aid support, more traditional student services kinds of support, helping them find child care if that is what they need, monitoring their attendance and making sure that they come to class and if they do not come to class, checking to see where they were and making sure they get back because they are trying to do multiple things. They are multitasking. They are working. They have families. They have people in their communities who are not always impressed by the fact that they have chosen to go to school. We try to work with the whole student and not just the student in the classroom both through our faculty and staff but also with assigned student success coaches to work with their students.

Senator MURRAY. One of the concerns I do have is the overly aggressive marketing that for-profit colleges have which targets individuals who are eligible for a high amount of Federal assistance. I am particularly concerned about heavy-handed marketing targeted at the homeless and our veterans, two populations I have long been an advocate for.

Ms. Parrott, I wanted to ask you how DeVry's advertising and marketing and admissions practices stack up compared to traditional institutions.

Ms. PARROTT. I think they stack up very well. I actually was an admissions counselor in an independent institution a number of years ago.

We recruit students whether they are in the 18 to 24 traditional student area or as working adults by talking with them and trying to match what they are interested in doing with what we have to offer, and if it does not match, we do not offer it to them. For example, we go into 8,000 high schools across the country and do college and career workshops that are not designed to get all the schools in those 8,000 high schools to come to DeVry but for students in those schools, many of them in urban areas, to have their students think about options after high school. Some of them end up coming to DeVry. I would say a very few of them end up coming to DeVry, but many of them use the output from those workshops to talk with their students about how they can find the right college for them. It is much more important——

Senator MURRAY. Are you unique in the for-profit world?

Ms. PARROTT. I really have only worked at DeVry for the past 28 years. I really cannot answer for the rest of the industry. We are very committed to a more educated population in the United States, and I am personally very committed to that as well. I stay there because our missions match.

Senator MURRAY. Ms. Reiter, what if any role did advertising and marketing play in some of the cases you prosecuted?

Ms. REITER. It plays a very big role. That is in my experience how people find out about the school. As the school itself says, I believe the students are not your typical high school student who spends months and years figuring out what college they want to go to. They are people who often are out, have graduated from high school or have not graduated from high school and they are out in the world, and they are without a job or stuck in a low-paying job. The advertisements and the solicitations and the brochures at the unemployment offices and on TV and on radio, which you cannot watch without seeing, are telling people, come to us. We will help you get a career. You will have the white lab coats or whatever that makes it look like this is wonderful. Then that is followed up when people do go in with the statements from the admissions recruiters along the same lines assuring people they are not going to have to worry about these student loan payments because they are going to earn so much money, they will be able to pay them back and they get some grant money besides. It is a whole string of representations from the broad public advertising through the admissions recruiters and then continued throughout the early-enough part of the course so that they are there long enough—the school with its front-loaded refund policies can collect all the money even if a student later drops out.

Senator MURRAY. Well, thank you. Mr. Chairman, I am out of time, but I will have some questions to submit for the record as well. Thank you.

[The prepared statement of Senator Murray follows:]

PREPARED STATEMENT OF SENATOR MURRAY

Thank you Chairman Harkin, Ranking Member Enzi, and members of the committee, for holding this hearing. The topic we are discussing today is one that I view as particularly important, and I welcome the opportunity to learn more from the witnesses we have here today.

As a member of the Senate Budget and Appropriations Committees, in addition to the HELP Committee, I believe it is absolutely critical that we invest our Federal education funding carefully and wisely.

At a time when State resources are scarce and college degrees are more important than ever, we must make sure that we are providing as many students as possible with the Federal financial aid they need to graduate and go on to a good-paying job.

I know that in my home State of Washington and across the country, many private-sector colleges are doing great work preparing our students for career success. These schools serve a disproportionate amount of at-risk students including those living below the poverty line, veterans, and first generation college students who may require additional resources.

I applaud any school that steps up to the plate to educate these vulnerable and oftentimes underserved populations. I believe we need to be careful not to paint all private-sector institutions with a broad brush as we move forward with these hearings.

At the same time, in Washington State, 44 percent of post-secondary institutions are for-profit, and in the 2008–2009 school year, for-profits in Washington State received over $31 million in Federal Pell grant funding.

Clearly, there is a lot at stake here—for our schools and for our students. I'm looking forward to hearing from our panelists about how we can continue making sure our Federal investments are being directed properly to help our students get the education they need.

The CHAIRMAN. Thank you, Senator Murray.

Senator Sanders.

STATEMENT OF SENATOR SANDERS

Senator SANDERS. Thank you, Mr. Chairman. Thank you all, panelists for being here.

Mr. Eisman, you and your co-workers, as I understand, have done a lot of research on for-profit educational institutions. As I hear you, your fear is that large numbers of students lured into for-profit institutions by sophisticated marketing are misleading claims, billions in government grants, including Pell Grants, are creating a situation where a large number of these students will drop out of school for whatever reason, not earn the income that they were promised or led to believe they would earn, and eventually default on their loans.

So my question to you is A, what happens to these individuals who went into these for-profit institutions with all kinds of high expectations, what kind of numbers are we talking about? And maybe more importantly, what are the implications for our entire economy?

In other words, as you talked about, the subprime mortgage crisis led to the greatest recession since the 1930s. We're suffering that today. What kind of fears do you have if present trends continue will be the national implications for our economy of the for-profit educational institutions and what's going on?

Mr. EISMAN. Just in terms of numbers, Senator, like I said in my testimony, given the growth in the industry, we believe about $500 billion worth of title IV loans will be funneled to this industry pretty much over the next 10 years. Our estimates are roughly that slightly less than $300 billion will be default out of those loans.

Those are big numbers. Unfortunately for all of us, we're now used to a lot of big numbers that sound very, very bad. The implications for the economy are not as broad as the subprime mortgage sector. Because while those numbers do sound big, the numbers from the mortgage sector dwarf those numbers.

I would just point out that it's a tragedy for the people who will be suffering those defaults. I don't know if everyone here is aware, but student loans are not dischargeable in bankruptcy. So if you default on a student loan, the only thing that's going to separate you from your student loan is death.

Senator SANDERS. For the rest of their lives, in one way or another——

Mr. EISMAN. You're married, without potential for divorce, forever. And that debt, you cannot get rid of it.

The CHAIRMAN. Would the Senator yield for a question?

Senator SANDERS. Sure.

The CHAIRMAN. Mr. Eisman, isn't it true that in the subprime market, the people who took out these mortgages and who have these debts, they can discharge those in bankruptcy?

Mr. EISMAN. The mortgage actually is not dischargeable in bankruptcy, Senator, but you can walk away from your house.

The CHAIRMAN. Well, that's what I mean. You can just——

Mr. EISMAN. You can walk away from your house and——

The CHAIRMAN. House?

Mr. EISMAN [continuing]. Then the debt will just leave you.

The CHAIRMAN. Definitely.

Mr. EISMAN. Here, you're stuck.

The CHAIRMAN. But a student default, like Ms. Issa, her debt, she has until she pays it off or dies.

Mr. EISMAN. Or dies.

The CHAIRMAN. She can't walk away from it?

Mr. EISMAN. Never.

The CHAIRMAN. Thank you.

Senator SANDERS. In other words, picking up on Senator Harkin's point, for the rest of their lives, people are going to be carrying around tens and tens and tens of thousands of dollars in debt, which impacts their credit ratings, obviously, right? Their ability to get a home, ET cetera, ET cetera. Are you aware of what kind of number—you talked about $300 billion in defaults. How many individuals are we talking about?

Mr. EISMAN. I haven't calculated that off—I don't have that statistic offhand, Senator.

Senator SANDERS. All right, let me ask Ms. Issa, you heard what Mr. Eisman said. Are you one of those people in that situation? So you're carrying that debt right now on your back?

Ms. ISSA. Yes, I am.

Senator SANDERS. What does that mean if you may—you've been so kind to come here and share your experience. What does that mean to you as a young person, the mother of a couple of kids?

Ms. ISSA. It's very stressful. It's like bricks on my shoulders. I don't know what to do.

Senator SANDERS. OK. Ms. Reiter, you, I gather, are aware of many other people in Ms. Issa's position. Tell us about what you observe with what happens to these folks.

Ms. REITER. Absolutely. In addition to things that have already been mentioned, they don't qualify for other Federal programs. They can wind up turning 65 and having Social Security benefits taken to pay. They can have their income tax refunds diverted to pay. They can have their wage garnished without court procedure because the special procedures that the higher education act allows for collection. Their lives are basically ruined.

Senator SANDERS. No, what I'm—excuse me for interrupting you. Mr. Chairman, when we see on television where they advertise a drug, and they say here are the side effects, it may cause A, B, C, irritated bowel or whatever it may cause, I'm almost thinking that maybe these for-profit institutions might put the side effects that you're talking about?

Ms. REITER. If I could just add. There were some provisions in the last couple of years that allow for income-based repayment, extended payments and things like that, that are a help to some students.

But it still doesn't help them, because they—it helps them with eventually after 25 years, getting rid of the debt. They still don't have the skills. They can't get new student loans to get a career, because they have the defaulted student loan already. So they're not eligible for a new student loan. They can't get a career. The rest of their lives is probably if you're thinking critically avoiding making money, because any money you make is going to go for that debt. And you have no way to really get——

Senator SANDERS. Let me ask anybody up on the panel, maybe Ms. Parrott or anybody else, or Ms. Reiter, do you think that most people who enter one of these schools are aware that if they don't pay off that government grant, the government loan, that they may get their Social Security cut when they reach 65? Do you think anyone knows that?

Ms. PARROTT. Well, I can tell you that for our students, we provide that kind of financial literacy counseling as part of their entrance into our institutions.

Senator SANDERS. Ms. Reiter, is it your understanding that most of the institutions provide that kind of financial information?

Ms. REITER. I think that most institutions are required to provide a number of disclosures. Students often receives a stack of documents, half an inch thick. In that stack of documents, there may very well be that kind of disclosure.

Not to the extreme that I've explained it, but there are those disclosures. Most students are coming in and being told you're going to have grants. Don't worry, that'll be taken care of. And the loans, don't worry, you're going to get this high paying job. You'll easily be able to pay it back within X amount of short time.

The focus, the whole focus is then I'm going to better my life. What they're really doing is taking away that student's life and their dreams of having a better life by saddling them with this debt.

Senator SANDERS. Mr. Chairman, thank you.

The CHAIRMAN. Thank you, Senator Sanders. Now, Senator Franken.

Senator FRANKEN. I want to thank you all for your testimony. Ms. Parrott, thank you for yours. DeVry has a long history and a stellar reputation.

Ms. PARROTT. Thank you.

Senator FRANKEN. You said you don't know about the other for-profit schools, but you—what you're hearing must sound familiar. It must bother you that while my State, we have good for-profits and do a good job—doesn't it bother you that there are these bad actors?

Ms. PARROTT. Absolutely. It bothers me that when I see that happen in any institution to any student. Yes, it bothers me.

Senator FRANKEN. Yes. Ms. Reiter, you're very familiar with stories like Ms. Issa's, right? This is not unfamiliar to you?

Ms. REITER. That's right. In fact, I've heard stories that are virtually identical.

Senator FRANKEN. And it's the overpromising. It's the bad data. You pointed out to all this bad data about how they say what money you're going to make when you get out and what percentage of students we place. These are just lies, right?

Ms. REITER. Yes.

Senator FRANKEN. They're just lies.

Ms. REITER. Yes.

Senator FRANKEN. OK.

Ms. REITER. If I could just add to that, though. Part of the problem is, they are lies. Another part of the problem is that there is no standard definition of what is employment. How long you have to be on the job, how many hours of work a week you have to work, whether you have to go through the school's placement agency in order to even be considered in that pool. Because there is no standard, it is difficult if you don't have that kind of standard to prove that it is a lie.

Senator FRANKEN. It seems then that what we have to do is change the rules, right? And that's kind of our job. We're Senators, so we have to change our laws and our rules, so we can tell which schools are the good schools, and which schools are the bad schools. That's what we have to do. That's what our job is here. That's why we're having this oversight hearing. And that's what we're going to do.

We need to have good information. We need to have data. We need to know who the good actors are and who the bad actors are. And we need to be able to have the kind of information where we can delineate one from the other and act against the bad actors.

Because I think $300 billion is a lot of money. It's the taxpayers money. The result on what happens to Ms. Issa. I'm going to ask about accreditation. Mr. Eisman, you compared the credit rating agencies and the securitization subprime market with what's going on with for-profit colleges. And you explained that some for-profit colleges are essentially running the organizations responsible for accrediting them.

It is my understanding that 11 of the 15 board members of the accrediting counsel for independent colleges and schools are currently executives at for-profit colleges. The parent companies of the for-profit colleges they're being accredited by the counsel, is that right?

Mr. EISMAN. One hundred percent, Senator.

Senator FRANKEN. One hundred percent right?

Mr. EISMAN. Correct.

Senator FRANKEN. OK, well, can't we do something to prevent this conflict of interest? Would you suggest that maybe that's our job?

Mr. EISMAN. Senator, I wasn't presuming to tell you what your job is, but I'm presenting the problem.

Senator FRANKEN. Presume away.

Mr. EISMAN. And I think——

Senator FRANKEN. Presume away.

Mr. EISMAN [continuing]. I think you should do something about it. Just like you tried to do something about the rating agencies.

Senator FRANKEN. Then, look, DeVry again, there—Secretary Duncan is right. There is a place for for-profit schools and where students can go. And the good actors are good actors and do a good job.

We have a job here. Part of it is to look out for Ms. Issa, look out for the taxpayer. I'll be damned if I'm going to be a Senator and not do that job. Thank you.

The CHAIRMAN. Thank you, Senator Franken. I will just intervene here with one thing. Ms. Parrott, before I turn to Senator Merkley next, if Senator Merkley would so let me proceed for just a couple of minutes now, I would appreciate that.

Ms. Parrott.

Ms. PARROTT. Yes, sir.

The CHAIRMAN. I was looking at the figures here on DeVry. DeVry increased their students in 1 year by 25.6 percent. Twenty-five point six percent. This is from your own data.

Ms. PARROTT. Yes.

The CHAIRMAN. From spring of 2009 to 2010. You have a profit margin of 16.1 percent—16 percent profit margin. Yet, by your own data, DeVry reported that education accounted for only 54.6 percent of your total costs. Fifty-four cents out of every dollar you got went to education. I mentioned that to a college president the other day, and he said that's shocking. Only 50—half, 50 cents out of every dollar goes to education.

Ms. Parrott, is it not true that on June 23, 2009, DeVry paid $4.9 million to settle a lawsuit with a former employee who worked as a recruiter at DeVry campus in Ohio. The lawsuit alleged violations of the ban on incentive compensation. That is paying recruiters based on the number of students they enroll.

The Department of Justice declined to intervene in the lawsuit, but approved the $4.9 million settlement. Is that not true?

Ms. PARROTT. That is true.

The CHAIRMAN. Thank you very much. And if you want to follow up on that.

Ms. PARROTT. I would like to follow up on that.

The CHAIRMAN. Later on, when I get my turn back.

Ms. PARROTT. Yes, sir.

The CHAIRMAN. Senator Merkley.

Senator MERKLEY. Thank you very much for all of your testimony. And Ms. Issa, you used the word scam in your testimony. You said you looked at complaints from other students online. Their stories were very similar. They all felt like victims of a scam, just like I did.

You feel you've been a victim of a scam. Why?

Ms. ISSA. Because the ultrasound program I was in was not accredited.

Senator MERKLEY. Yes. Now Mr. Eisman, I believe you made a comment that accreditation is normally necessary for folks to access title IV funds. I'm wondering why—and you may not be in a position to know this specifically, but I'm wondering why a program that was unaccredited was able to be in a position of having its students have access to title IV funds. If anyone can answer that.

Mr. EISMAN. I think I can answer that, Senator. There are different types of accreditation. The accreditation that I was speaking about is national accreditation or regional accreditation of a school. You might have a program, let's say, medical assistant program, where the school is accredited by the accrediting bodies that I mentioned, but is not recognized by let's say the medical assistant organization of the United States of America. Or in Ms. Issa's case, was not recognized by the organization that oversees the specialty that she was trying to do.

The school can advertise and say, "Hey, come to our school, we are an accredited school." But they didn't tell her that this—the entities that need to recognize her specialty don't recognize the school. That happens unfortunately, I think, more often than not in this industry.

Senator MERKLEY. We have a complicated system of accreditation in which a student, who's responding to an ad they might have seen on television or in the newspaper, they're being told you come and get this degree, there's a market waiting for you. It implies accreditation. And yet, when you went to get a job, you were told, what?

Ms. ISSA. That the program was not accredited.

Senator MERKLEY. Yet, you found out there was a local community college that had an accredited program at half the cost. Well, to me, I think the use of the word scam is very appropriate. I hadn't really focused on the other piece of this. I'm glad you all brought it to our attention, that the loan incurred follow you throughout your entire life. And thus, we are allowing victims of scams to be haunted and punished throughout their entire life, affecting not just the victim, but the family. Because as you wrestle with your finances, it affects what you can do, whether or not you can afford to go get an accredited program, if you will. You've lost time. You've lost money. That affects opportunities you might be able to provide for your children. Is that a fair characterization?

Ms. ISSA. That's correct.

Senator MERKLEY. OK. Thank you. I really appreciate your willingness to come and share your story to help us understand the challenge.

Ms. Parrott, you own a school in Oregon. By all counts, a very solid program. As far as I've ever heard, do you use incentive payments in Oregon or in others for recruiting?

Ms. PARROTT. We do not.

Senator MERKLEY. OK. Has that been a conscious decision and you see your competitors using those payments?

Ms. PARROTT. We use a merit-based system. We pay everyone in our organization based on the goals and objectives that are set for the amount in annual basis. That's what I know. I can say that I was around, someone mentioned to Senator Nunn in the hearing to the Permanent Committee on Investigations in the 1990s. I was around then. There were a number of conversations around incentive compensation that had to do with independent contractors and people who were paid for the lack of the better way to put this, for piece work in the way that you pay people in the garment district. That is a 20-year-old view of what goes on from my understanding today. But again, I can only speak from where I sit.

Senator MERKLEY. Thank you. My time is up. I'll just note, I'll be curious to follow up, Mr. Chair, as to whether the Sanford-Brown Institute is being investigated by anybody for the type of scam or fraud we've heard testimony about today, so that other folks are not victims down the road. Thank you.

The CHAIRMAN. Senator Bennet.

Senator BENNET. Thank you, Mr. Chairman. I'd like to thank the panel for your excellent testimony. Ms. Issa, I'd like to thank you in particular for being willing to come share your experience. In hearing your testimony and also Ms. Parrott's observation which I agree with completely that there is enormous unmet need out there. There are people that are working, who can't go to school during the day. There are people that can't get their degree in 4 years. There are places where there's a shortage of nursing training. All of that is true. The only thing I care about is that the deals that are made are kept, and that the quality of the education be high, whether it's public or whether it's private.

I just wanted to ask you first, Ms. Parrott, what internal metrics, if any, does DeVry use to determine whether or not the program that it has is a quality program and whether the outcomes are quality outcomes?

Ms. PARROTT. We have internal controls in every aspect of our business. Specifically, with relation to quality outcomes, we look at our DeVry University at the numbers of students who graduate from our institutions and are then employed in education-related careers within 6 months of graduation.

At our nursing colleges, we look at Enclicks (phonetic) pass rates. Our Chamberlin College of Nursing's pass rates are between 90 and 98 percent, depending on the location. That's over and above the national average of about 88 percent.

We're looking at whether or not we have provided to the students that we educate the education that will allow them to pursue the careers that they are interested in going into. We look at that specifically related to whether or not it's educationally related as opposed to did you get a job anywhere?

Senator BENNET. OK. And just a question for anybody in the panel that wants to answer it. Mr. Eisman might have an answer because you've been studying so closely or Ms. Parrott. Is there a difference in who the faculties are in these schools? Can you describe any difference between private schools and public or among private schools? Who are the people that are teaching?

Ms. PARROTT. The requirements for faculty are in the States where we operate—State-determined. They tell you in order to be a licensed college or university in our State, your faculty must meet this standard. That standard is not diluted for any sector of education.

I will say that we probably have more practitioner-based faculty, people who in addition to——

Senator BENNET. We, meaning DeVry?

Ms. PARROTT. We, meaning DeVry. I'm sorry. We, DeVry have more practitioner based faculty, meaning that in addition to meeting the academic credentials that they need to meet to teach in an associated baccalaureate or graduate degree program, they also have work experience in their fields.

Senator BENNET. Ms. Reiter.

Ms. REITER. Some of the declarations that we got from students about the quality of the training from the faculty indicated that the instructors in one course, they had a new device for some kind of medical thing, brand new device which they touted. Neither the instructor nor anybody else knew how to use it.

One instructor would bring in her friend to show the massage therapy techniques because the instructor herself didn't know them. When that instructor left, then they brought a chiropractor person in who didn't know massage techniques.

In other words, there is quite a bit of problem in the schools that we've seen with the instruction not being quality instruction. I think some of the schools in the industry themselves indicate that a lot of their instructors are part-time.

There isn't the kind of faculty that you would expect in a public institution, that is there, that has a track record.

[Interruption]

Senator BENNET. No, I have 45 seconds left. I can't trick the Chairman. Mr. Eisman, I just want to end with you. I have spent much more time in K–12 education than I have higher ed, and came to believe that the alignment of our incentives and disincentives in public education are largely out of whack in terms of the outcomes that we really want for our kids.

You talked in your testimony a little bit about realigning the incentives when it comes to private universities. I wonder if you could talk a little bit more about what that would look like, what would it look like to have investors or others with more skin in the game? How should we be thinking about that?

Mr. EISMAN. One thing that I suggest——

Senator BENNET. Can I ask one other question? In your research, when you observe that there were some good actors in the space you thought, is there a reason that you could determine why those places are quality places versus places that weren't? Any of that I'd love to hear the answer to.

Mr. EISMAN. In the PowerPoint presentation that I presented to the committee, you'll see at the back I present a matrix for each company that shows what would happen if a company bore the first 5 percent of loss, the first 10, the first 15, the first 20. What would happen to the earnings of each company? I would suggest you just look at that.

In most cases, using what I would think would be a reasonable amount of what these companies should bear of losses, the companies are still quite profitable. They're just not as obscenely profitable as they are today. I also think that would have an impact on defaults because with skin in the game, you would be more careful in terms of your underwriting in terms of who got a student loan.

Senator BENNET. Thank you Mr. Chairman.

The CHAIRMAN. I think that's a good point, Mr. Eisman. It just seems to me that what we have here is that we have all these students with debt, but we have the companies with profit. I mean, huge profits. I'm not against profit. If someone makes something and they use their ingenuity to build something, they can beat the competition and they can make a lot of money. God bless them.

In this case, we're talking about for-profit schools. Ninety percent or maybe more of their money comes from the taxpayers. This is not like Apple Computer building a new iPod or something like that. This is not the same situation. They build a better iPod or a something like that, and they can make good profits. Wonderful.

But in this case, where the money comes basically from the taxpayers, we have to question that. So again, it seems to me that the students aren't the real beneficiaries here.

It's not the students, it's the companies. As you said, a for-profit company, for-profit schools that provide some good services in the past, but I want to go back. I want to go to Ms. Parrott—let you respond to those points I made about DeVry. Twenty-five percent increase in 1 year. Profit margin, 16 percent. Spending only 54 cents of every dollar on education.

Ms. PARROTT. OK.

Senator BENNET. And settling a lawsuit just last year on an incentive compensation case. Bring us up to speed on it.

Ms. PARROTT. OK. Thank you. With respect to the 54 percent of our budget on education services, actually, we've looked at that against all sectors of education. That is slightly higher than the not for-profit and independent institutions when you take into account the tax subsidy. We'd certainly like for it to be more. We are working to do that.

Our after tax——

The CHAIRMAN. Let me get that straight.

Ms. PARROTT. Yes, sir.

The CHAIRMAN. Let me just make sure I understand correctly what you just said.

Ms. PARROTT. Yes, sir.

The CHAIRMAN. You said that your 54.6 percent that you spend on education is slightly higher——

Ms. PARROTT. Yes, sir.

The CHAIRMAN [continuing] Than the amount of money per dollar of income coming in at private not-for-profit schools, colleges?

Ms. PARROTT. Yes, spent on instruction versus dollars that are spent doing other things. Yes, sir.

The CHAIRMAN. Well, the information I have is that when you compare it on an apples to apples comparison of for-profit schools to nonprofit, that an institution like Harvard, for example, may spend less than 50 percent on instruction because they have all—they have the hospitals. They have the research institution that they spend money on research. If you take out that element, which basically DeVry doesn't have, and doesn't engage in, and compare it just on the basis of the student population and the education they receive, and the money that comes in, would you still maintain that you are spending more on education than the private, not for-profit?

Ms. PARROTT. I will go back and look at that. Where I pulled my numbers from were the National Center for Education Statistics.

The CHAIRMAN. Because obviously, DeVry and other entities that we have, that I think the data I put up there earlier showed how much we're spending on advertising.

Ms. PARROTT. Our advertising spend is about 14 percent. That's transparent data that is in our annual report.

The CHAIRMAN. And that's how much you spend on advertising?

Ms. PARROTT. Yes.

The CHAIRMAN. How much?

Ms. PARROTT. Fourteen percent of our revenues.

The CHAIRMAN. How much do you spend on recruiters and recruiting then?

Ms. PARROTT. Our recruiting costs average about $2,100 per enrollment versus about $2,300 in not-for-profit sectors according to the National Association of College Admission Counselors.

The CHAIRMAN. Well, these are interesting figures. And you will provide those for the committee?

Ms. PARROTT. I absolutely will.

The CHAIRMAN. You said, Ms. Parrott, that since the 1970's on average, DeVry has placement rates close to 90 percent.

Ms. PARROTT. Yes, students employed in an educationally related job. Yes, sir.

The CHAIRMAN. I don't know that I understand what you just said.

Ms. PARROTT. OK, we don't actually place the student in a job.

The CHAIRMAN. I understand that.

Ms. PARROTT. We educate students for careers.

The CHAIRMAN. Right.

Ms. PARROTT. And then they look at them. We could use placement if that's a more comfortable term, but yes.

The CHAIRMAN. You're saying that since the 1970s, on average——

Ms. PARROTT. Yes.

The CHAIRMAN [continuing]. Placement rates for the students that you have educated are close to 90 percent?

Ms. PARROTT. Placement rates for graduates who have participated actively in a job search with us. Yes.

The CHAIRMAN. Would you share with this committee your methodology on how you track, record, and report these?

Ms. PARROTT. I would absolutely be pleased to.

The CHAIRMAN. And the placement results?

Ms. PARROTT. Yes, sir.

The CHAIRMAN. I appreciate that very much.

Ms. PARROTT. I'd like to also answer the other question that we left hanging.

The CHAIRMAN. Yes.

Ms. PARROTT. If you wouldn't mind. With respect to the incentive compensation case that you brought up, we actually won in the lower court. It was dismissed in the lower court. Then the plaintiffs went to appeal. We concluded that the cost of appeal was greater than any settlement we would come up with, and that we needed to get back to the business of educating students, not litigating.

That was a decision that we made. But the lower court had ruled in our favor.

The CHAIRMAN. Do you think that 16.1 percent is a fair profit?

Ms. PARROTT. Our after tax profit is about 11 percent, which is actually within the range that Mr. Eisman mentioned for most companies.

The CHAIRMAN. Most education companies?

Ms. PARROTT. No, no, most—no actually I guess it's low for education companies, but for in general companies. He mentioned 8 to 12 or something rate on return—on investment. Our after tax income is about 11 percent.

The CHAIRMAN. Well, would you share with this committee the methodology?

Ms. PARROTT. Yes, sir. Absolutely.

The CHAIRMAN. I appreciate that very much. Ms. Issa, I haven't had a chance to, again, to ask you a couple of questions. I guess you already talked about a lot of things. I'm interested in your debt that you say is about $21,000 now?

Ms. ISSA. That's correct.

The CHAIRMAN. How much did you borrow?

Ms. ISSA. Well, to attend Sanford-Brown I borrowed $15,000.

The CHAIRMAN. Yes.

Ms. ISSA. About.

The CHAIRMAN. Then, the rest was leftover college debts?

Ms. ISSA. Yes, yes.

The CHAIRMAN. We have about $21,000 right now. And your interest rate is?

Ms. ISSA. From Sanford-Brown was 6.8 percent.

The CHAIRMAN. Six point eight percent. And you have to be making payments on that? Are you making payments on that?

Ms. ISSA. No, it was deferred.

The CHAIRMAN. Deferred. I just want to ask my staff when a debt is deferred, the interest rates still accumulates?

Ms. ISSA. That's correct.

The CHAIRMAN. So even though you got it deferred, the interest rate clock is running all the time?

Ms. ISSA. Yes.

The CHAIRMAN. I asked my staff to tell me at 6.8 percent, at 7 percent—Mr. Eisman, when does a debt double? At 7 percent uncompounded, when you compound it, it doubles in about 10 years if I'm not mistaken, if you didn't make any payments.

So again, students get on this treadmill and it's very hard to get off. And the debt just keeps following you.

I wanted to point out as it's been pointed out many times that you can't discharge that debt. You have to pay for it. And here you are, you can't even get a job to pay for it.

Thinking of other young people like yourself who are out there, what advice would you give to them if they're looking at one of these proprietary schools? What advice would you give them?

Ms. ISSA. Not to go to them. Go to a traditional college.

The CHAIRMAN. Did you have a community college available to you?

Ms. ISSA. At the time, I didn't know there was one, because of advertising. When I googled ultrasound schools, I saw Sanford-Brown.

The CHAIRMAN. Yes.

Ms. ISSA. I didn't know that there was one near me.

The CHAIRMAN. You mentioned in your testimony that you had repeated phone calls from the recruiter or from someone at Sanford-Brown, urging you to hurry up and sign up?

Ms. ISSA. That's correct.

The CHAIRMAN. Tell me more about how that proceeded?

Ms. ISSA. Well, they just, like I said, they just kept on calling me, pressuring me to sign up because the seats were filling fast. The deadline was days away.

The CHAIRMAN. Ms. Reiter, why do for-profit schools have so many women enrolled in the programs? That struck me as kind of odd also.

Ms. REITER. I'm not sure. I don't have data to say why that is. What I can say is that there are a number of programs, possibly, of the kind that would attract more women than men. If you look at the numbers of different kinds of programs, but I don't have any empirical evidence of that. What I do know is that they are designed to and do attract more low-income people as I had mentioned previously.

The CHAIRMAN. In 2002, as it's been said before, and I want to repeat, the Department of Education put out some exceptions to the ban on paying recruiters according to the number of students they enroll. They put out exceptions to this. Do you think this change in the regulations allowed the types of abuses you saw in your investigation to happen?

Ms. REITER. It was one of the factors that certainly fueled that. I couldn't say it's the only thing, because there were some other changes that were also detrimental.

As we've talked about before, the cohort default rate was changed so that a person had to be behind in their payments for a longer period of time and the 2 years limiting it. The requirement that proprietary schools had to get at least 15 percent of the revenues from something other than student aid, which changed only 10 percent, and then even more recently, it was changed so that they could include other Federal moneys. There are a number of factors, but that's certainly one that fueled it.

And from a prosecutor's viewpoint, it's the one that caused us, when we were looking at what the problems were, to not even try to prosecute—because of the loopholes, it would have spent all of our resources fighting about is this required or isn't it required? The loopholes were so big, that it just made prosecution unmanageable. I'm very impressed that there were some private litigants who are able to actually get multimillion dollar settlements on this issue, because the loopholes were so extraordinary.

The CHAIRMAN. Ms. Reiter, I've heard the trade associations say repeatedly that nationally accredited for-profit schools have to report placement information to accreditors. Doesn't that mean that all of the schools accreditors at least have placement information?

Ms. REITER. There are two kinds of accreditors that can be used as been discussed. Regional and the nationals.

Starting with the regional, the last time I looked at it in depth, none of them had placement requirements. That could have changed, but I don't believe so because I understand from the president of the Proprietary Schools Association, in his recent remarks, he emphasized nationally accredited, and didn't mention regionals.

The IG has looked at this in the past and said the regionals really need to have outcomes placement. I don't believe they do. Or if they do, it's a few of them.

Even if you look at the nationally accredited agencies and the schools they accredit, every school where you prosecuted, I believe in California, was nationally accredited.

The school that I gave the details about was nationally accredited and had supposedly placement requirements of 70 percent or so, according to what the school was telling the students. Obviously, they weren't accurate. They weren't being checked. Then, the accrediting agencies don't—that's not a standard amount. What is a job? Is it 1 week on the job? How many hours a week? Two hours a week?

With some of them, the standards are so vague, I don't know how you could possibly enforce them. Then you have things as Ms. Parrott was mentioning from DeVry, when they're looking at that placement statistics, apparently, and I don't know whether that's because of the regional—their accreditor, whatever. They're only looking at students that actively use their placement services. So that leaves students out, we don't know what percentage of the graduates that includes. It's very difficult to say, "Oh, these placement records show us something, because they're all over the map." We don't know what they show us.

If I could just mention one other thing. That is, and I think Mr. Eisman has touched on this, the accrediting agencies are very small bodies. They are based on traditional educational sense that you're looking at people who want to give a good education. They're really not equipped in numbers or resources or in the way of having investigators to really look at this kind of thing, so that it makes it so that you can't rely on this information.

The CHAIRMAN. I'm trying to get one of my graphs put back up on the screen that I'd like to ask you about.

Mr. EISMAN. Mr. Chairman, could I make a comment on that—the placement issue?

The CHAIRMAN. Yes. Yes, sir.

Mr. EISMAN. This may sound extreme, but I don't trust a single statistic that's generated by this industry, other than its audited financials. The audited financials I trust because they're so good. There's no reason to think that the industry lies about them.

Statistics like placement, I don't believe a single number that I see. I'll give you an example. I spoke to a woman who worked at one of the for-profit colleges. Her job had been in the placement office, but she quit. The school that she was working for had grown extremely rapidly, and was having trouble making its placement numbers that it was required to make from the accrediting bodies.

Two things that she told me was that the school had made monetary donations to companies in the neighborhood, who in exchange for which hired students for a day. That day employment was counted as a placement.

The people in the placement office went through the files of all the students. If a student, let's say, was a working adult, and had a job when they came to the school, let's say graduated and still had the same exact job at exactly the same pay as when they started, that was also counted as a placement.

You have a measurement program because other than—as I said, the audited financials, it's very difficult to trust any of these self generated statistics put out by this industry.

Ms. PARROTT. Mr. Chairman, if I might, I think that we have to inspect what we expect.

The CHAIRMAN. We have to what?

Ms. PARROTT. Inspect what we expect. We do that at DeVry. You've asked me to provide you with the materials that show you what goes into our calculation, who's in, who's out, and why. I'm happy to do that and to share that with all members of the committee.

The CHAIRMAN. Well, I appreciate that. I look forward to that. And as I said, this is the first in a series of hearings. We're going to be delving into this. What Mr. Eisman just brought up is one aspect that we want to look at.

Ms. PARROTT. Absolutely.

The CHAIRMAN. Statistics and data can be very self-serving when they are produced by the entity that's getting the taxpayers' dollars. We want to look at how they're coming up with some of these figures.

I've looked at some of them myself. I raise serious questions about these placement rates, and how they calculate them. Mr. Eisman just touched on a couple of them and how they distort what is really happening in the real world out there.

We want to look into those. And to find out exactly how that data is being generated.

I had this chart put back up on the screen. I'm trying to find my own packet of information here that I used earlier. See if I can find it here. Yes, this is the one I referred to in my opening statement.

Ms. PARROTT. Find it?

The CHAIRMAN. Which I said was very perplexing. I just took school 4 and I said at the beginning of the enrollment, they had 96,211 students. At the end of that year, they had 116,800 students. In 1 year, they went up 20,000 students.

Well, OK, fine. They got 20,000 students. But in between that time, they added 118,500 new students and 98,300 departed. Well, I can understand the first figure. I can understand the last figure, but I don't know that I understand those two in between.

Can anyone explain how they got 118,500 new students and 98,300 departed? Did they graduate 98,300? Where did they go?

Mr. EISMAN. They dropped out, Senator. They evaporated.

Ms. PARROTT. Some dropped out.

Mr. EISMAN. This industry has exceptionally high dropout rates. And one statistic actually that you don't capture here, which nobody captures, but we suspect is happening is some of these schools is there is massive intra quarter churn.

For example, the companies report quarterly.

The CHAIRMAN. Right.

Mr. EISMAN. What they'll report is we had 100 students at the beginning of the quarter. We brought in 50 new students. We ended the quarter at let's say 125 new students. Simple math said 25 students either dropped out or graduated. Well, they don't really give the graduation rate so you would have to make assumptions about what those are.

What they don't tell you is that intra quarter, there were people who showed up and left and dropped out. Those don't show up in anybody's statistics. We suspect, and again, this is just my opinion, that those numbers among these schools can amount to the hundreds of thousands of people.

Ms. PARROTT. Actually, the Department of Education requires as part of the external audit that institutions get that they look at a retention rate across an academic year. So, they look at the number of students that start—that are enrolled at the beginning of the year and how many of those students, those same students are still enrolled at the end of the year.

There is a test that is about anything over a 33-percent attrition rate in that persistence over a year ends up putting you on a list to be looked at by the Department of Education. That data is available. I think it is actually now even available on the web—on the department's Web site by institution.

The CHAIRMAN. I'm informed by my staff, Ms. Parrott, that those figures from the Department of Education are for first-time, full-time students only.

Ms. PARROTT. That is the—no, no, no, not the college navigator student. College navigator program looks at first-time full-time students, and looks at how they're doing against a cohort graduation rate.

The retention rate data that is available, and if it's not available on the department's site, it's certainly in the department's records, and they have the ability to make it public at any point, is based on a look at how many students were enrolled at the beginning of the year, how many of those students withdrew during the year, and what your 1-year retention rate is going into the next academic year. That is available information. I'm happy to provide it.

The CHAIRMAN. Well, could I go to the Department of Education, for school No. 4, and we know who school No. 4 is.

Ms. PARROTT. Of course you do.

The CHAIRMAN. Could we go to the Department and find out exactly what happened to those 98,300 students?

Ms. PARROTT. You could go and find out whether they graduated or dropped out.

Mr. EISMAN. I don't think so.

Ms. PARROTT. Yes.

The CHAIRMAN. I'm told that that is impossible to find out right now. That's what this committee is trying to figure out is how we find out—for example, we know 96,200 started. We know 116,800 ended. We don't know what happened in between. There's a churn going on, but we don't know what's happening in there.

Ms. PARROTT. In order for those numbers to roll up, they have to be able to roll back. You have to be able to go back and get to the number. It may not be pretty, it may not be easy, but you have to be able to go back to get to the number.

That's why data, and not anecdote, is so important.

The CHAIRMAN. Well, again, this is one of the reasons we're having these hearings, to try to figure it out and get to the bottom of it.

Ms. PARROTT. Absolutely. I'm happy to work with anyone that would like to do that.

The CHAIRMAN. Because we have asked, this committee has asked, and I've asked my investigations team, but we will follow up, we've asked on graduation rates and dropout rates. And we can't get a handle on it. We cannot get a handle on how many students are being churned in there, that come in, and drop out, come in, and drop out.

Again, we know the beginning. We know the end. We know that, but we don't know what's happening in between because we can't get the data for it. If you have some advice for us on how to get that data, please let us know.

Ms. PARROTT. I would be happy to.

The CHAIRMAN. Because there's something happening in there that raises a lot of serious questions. It's true in all the schools that I have listed there. I believe these schools are listed with the SEC, and are accredited schools.

Ms. PARROTT. Yes.

The CHAIRMAN. Because the University of Phoenix, one of the reasons I said about first-time, full-time, and we're going to get into that, reported in a 2004 brochure that the graduation rates for first-time full-time students captures about 3 percent of their enrollment.

Ms. PARROTT. Right.

The CHAIRMAN. Mr. Eisman, on the risk-sharing, I will at the end of this hearing, I will ask the record to remain open for 10 days for questions that other Senators want to submit. I might ask you if you talked about risk-sharing and getting these schools to do more risk-sharing. I looked at your PowerPoint presentation. My question is how? I don't know exactly how we get them to do risk-sharing?

Mr. EISMAN. Senators, to my knowledge, you have to pass legislation.

The CHAIRMAN. Yes.

Mr. EISMAN. Excuse me, what I outline in my PowerPoint is, assuming for example that the—basically what you would do is you would pick a number of how much these schools should bear of the losses. They should be in first loss position.

In other words, just pick out a random number. The school generates $100 million in losses over a period of time from student loans. They should be on the hook for the first 5, 10, 15, or 20 percent of those losses. So they eat the first losses. Then, the taxpayer would eat the losses afterwards.

That would obviously eat into their profit margins, but it might make them somewhat more selective on their recruiting.

The CHAIRMAN. Yes.

Mr. EISMAN. That way, they would be incentivized, I think, to do the right thing.

The CHAIRMAN. Well, that's what I want to look at—if we go down that road, I don't know, but how we get them to bear more of the risk-sharing, and we'll look at your suggestion.

You pointed out in your written testimony, that in the fiscal year 2009 Apollo, the largest company in the industry, grew total revenues by $833 million. Of that amount, $1.1 billion came from title IV. More than 100 percent of the revenue growth came from the Federal Government. You point out, of this $1.1 billion in Federal loan and grant dollars, the company spent only an incremental $99 million on faculty compensation and instructional costs. Nine cents on every dollar received from the government going towards the actual education of students. The rest went to marketing and paying the executives.

Could you elaborate on that just a little bit? How did you get that figure?

Mr. EISMAN. These are probably audited financials of the companies. The reason why I chose to just mention Apollo in my written testimony is that it's difficult to get from some of the other public companies how much money they actually spend purely on education. We just chose Apollo because a disclosure was better. Just to repeat your statistics, in fiscal 2009, the company had a little bit more than $800 million incremental revenue. They had over $1 billion in incremental revenue from the government, which meant that more than 100 percent of the revenue growth came from the government. Of that $1.1 billion, they only spent $99 million on education.

Now I don't know about you, but I find that pretty shocking.

The CHAIRMAN. I do find that shocking. Ms. Reiter, does that kind of comport with anything that you might have looked at in your investigations in terms of how much is being spent of the growth in government money going to these institutions?

Ms. REITER. Our investigation really didn't get into that.

The CHAIRMAN. OK.

Ms. REITER. I've seen certainly the statistics which I think you've already heard today as to the tremendous growth and how much of it is coming from that. I really don't have anything to add on that point.

The CHAIRMAN. OK. Well, I have no more questions. Are there any other things that any one of you wanted to bring up, that you wanted this committee to know or that you want to put in the record right now? Ms. Issa, is there anything else that you wanted to impart to us at all? Ms. Reiter?

Ms. REITER. Well, there was one point that I just neglected to mention in my statement that I had intended to mention when I was talking about the school statistics on placement. Among other things we found were that the massage therapy students placement records included consistently fictitious businesses. We discovered in talking to former students that those names were business names they had come up with in a class that was to teach them how to make business cards. The school actually used those fictitious names to say that that's where the students were placed when there were no such businesses. I think it just gives a little flavor that perhaps the other examples might not have.

The CHAIRMAN. Ms. Parrott.

Ms. PARROTT. No, sir. Just to let you know that we are happy to participate in the hearings. And we're happy to work with you in finding good solutions.

The CHAIRMAN. I appreciate your forthrightness on it. Thank you.

Ms. PARROTT. Thank you.

The CHAIRMAN. Mr. Eisman.

Mr. EISMAN. Nothing more, Senator, thank you.

The CHAIRMAN. Well, I thank this panel very much. I thank all of our witnesses. We'll leave the record open for 10 days. I called this hearing for all of the members to gain a better understanding of the role of for-profit education. We've heard information that's very concerning. There's a lot we don't know. We will continue ahead with this.

There's something happening out there, that compels us to look at this. The huge amount of taxpayer dollars that are going into Pell Grants and students loans, the number of Ms. Issa's that are out there, what's happening with the churning? Companies are increasing their revenues so much each year, but all of it's coming from government money. And they have huge profit margins. As I said, I don't mind profit. That's good if someone's making a new iPod or something like that. If this is education, and it's taxpayers' money, we really have to question seriously the profit margins of these companies, and where that money's going, how much is being used for recruiting? How much is being used in advertising and marketing? And how much is actually going into instruction?

It also seems to me, in preparing for this, in reviewing this over the last couple of months, and reading as much as I can about it, it seems that we have a situation that has developed in the last several years. I won't put a deadline, a cutoff. Maybe 2002 with the changes in the Safe Harbor, maybe some other things that happened in that decade.

It seems that we have a situation where the bad actors are pulling the good actors. Now what I mean by that is that a company that may be a good actor, maybe DeVry, who has a long history, and other companies like that are being pulled into this vortex, because their competitors are doing it. Their competitors are sucking up all of this Federal money. And they're making big profits. They're paying their executives extremely high salaries. And they're getting bigger. They're growing bigger. And so, a school that in the past has been a great school maybe, has done really good stuff, has abided by rules, says wait a minute, if we miss this train, we're out of luck. Maybe we got to get on that train, too.

We find those that have known how to game the system in the last 10 years, to increase their profits, to increase their income, churn the students, and kind of then pull into this vortex a lot of good schools that otherwise would not be doing that.

I think that also is something that appears to me to be happening. Again, it really compels us and this committee and this Congress to do something about it and to stop it before it goes too far.

We'll continue these series of hearings next month and beyond to look at what we have to do legislatively, and what maybe the Department of Education has to do in its regulatory framework to get on top of this. I don't think anyone who is reasonably objective about this can say that there's nothing wrong, we don't have to do anything. Something's got to be done. I don't know exactly what. I might want to go all the way, but something needs to be done. I don't think any objective person involved in the industry or in any way in education or involved in the business sector, like you, Mr. Eisman, I don't think anyone objective can say we can just sit by and let nothing happen. And this committee, I can tell you, we're going to make something happen. We just cannot continue to let this go on like it is.

With that, I thank the panel for coming here. I thank you for your testimony. The committee will stand adjourned.

[Additional material follows.]

ADDITIONAL MATERIAL

PREPARED STATEMENT OF SENATOR CASEY

Thank you, Chairman Harkin, for holding this important hearing. The United States has a growing population of high school graduates seeking higher education to better themselves and lead to rewarding careers. Unfortunately, higher education today is an expensive endeavor that too many students struggle to afford, particularly in the current economic downturn.

I've been proud to work with the Chairman and members of this committee to pass record increases in Federal financial aid to students. At the same time, it is critical that institutions receiving this Federal aid deliver quality educations to their students. As Pennsylvania's Auditor General and State Treasurer, I fought for a decade to stop waste, fraud, and abuse involving tax dollars. Allegations of fraud against certain career colleges should be fully investigated and those engaged in these practices should be severely sanctioned.

Career colleges serve a growing population of non-traditional students who are more likely to be working while attending school and may be the first in their families to attend college. These institutions should be held accountable, but we must be careful not to limit the choices available to students. It is my hope that these hearings will shine a light on how career colleges, and all institutions of higher education, are using Federal student aid to serve students.

U.S. DEPARTMENT OF EDUCATION,
OFFICE OF INSPECTOR GENERAL,
July 15, 2010.

Hon. TOM HARKIN, *Chairman,*
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510.

Hon. MIKE ENZI, *Ranking Member,*
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510.

DEAR CHAIRMAN HARKIN AND RANKING MEMBER ENZI: Thank you and all of the members of the Committee on Health, Education, Labor, and Pensions for the opportunity to follow up on my testimony before the committee on June 24, 2010. Attached are my answers to your questions.

Should you have any additional questions or require further information, please do not hesitate to contact me directly at (202) 245–6900, or our Congressional Liaison, Catherine Grant at (202) 245–7023.

Sincerely,

KATHLEEN S. TIGHE,
Inspector General.

RESPONSE TO QUESTIONS OF SENATOR ENZI, SENATOR DODD, SENATOR BROWN, SENATOR CASEY, SENATOR HAGAN, SENATOR ALEXANDER, AND SENATOR COBURN BY KATHLEEN S. TIGHE

QUESTIONS OF SENATOR ENZI

Question 1. In your testimony, you indicated that 70 percent of your investigations involving institutions of higher education involve for-profit institutions. How many schools does this represent? What percentage of all for-profit institutions has your office investigated over the past 5 years?

Answer 1. The percentage reported in my testimony is based on 103 open investigations involving post-secondary institutions. Seventy-two (70 percent) involve for-profit schools or their officials or employees. All schools certified to participate in the student aid programs receive a unique identification number, known as an OPEID number. Some schools operate multiple campuses and locations in multiple States under a single OPEID number. Other schools under common ownership are separately certified with separate OPEID numbers. There are over 2,000 for-profit schools with unique OPEID numbers certified to participate in the student aid programs. Counting the separate OPEID numbers as separate schools (as the Department of Education (Department) does when reporting the number of participating schools), our 72 investigations involve 108 for-profit schools separately certified by the Department to participate in the student aid programs. This figure represents approximately 5 percent of all currently certified for-profit schools.

Since October 1, 2005, the Office of Inspector General (OIG) has conducted a total of 128 investigations related to for-profit schools. We cannot at this point readily determine the exact number of schools, or unique OPEID numbers, covered by these investigations so as to give an accurate percentage. Many of the investigations are now closed and OIG's investigations case tracking system identifies investigations by entity type rather than OPEID number.

Question 2. You indicated that you have evidence of widespread abuses throughout the for-profit sector? Specifically, what is that evidence?

In my written and supplemental oral testimony I slated that of our audits and investigations of abuses by post-secondary schools, there is a higher percentage of cases related to the for-profit sector than to the public and non-profit sectors. While the areas of abuse that I identified in my testimony are recurring and significant, we cannot conclude that the abuses are "widespread," as we can only report on the abuses of which we are aware.

QUESTIONS OF SENATOR DODD

Question 1. Ms. Tighe, can you elaborate on the Department's relationship with the accrediting agencies that are giving these schools their stamp of approval? What authority does the Department of Education have to direct these agencies to improve their standards of accreditation? Outside of this authority, how has the Department tried to work with these agencies to raise the standards, amidst the concerns you raised? With what response has this outreach been met?

Answer 1. The Department has very little authority over the standards used by accrediting agencies. The General Education Provisions Act, 20 U.S.C. § 1232a, and the Department of Education Organization Act, 20 U.S.C. § 3403, prohibit the Department from making determinations on curriculum or programs of instruction or from supervising accrediting agencies. In the 2006–2007 higher education negotiated rulemaking session, the Department did attempt to develop criteria for the requirement in the Higher Education Act of 1965 (HEA) that accrediting agencies establish standards related to student achievement. At the end of 2007, Congress prohibited the Department from promulgating or enforcing any revision to the regulations governing accrediting agencies. Department of Education Appropriations Act, 2008, § 305 enacted in Division G of the Consolidated Appropriations Act, 2008, Pub. L 110–161, 121 Stat. 1844, 2198 (2007). In the Higher Education Opportunity Act of 2008 (HEOA), § 495(3), Pub. L. 110–315, 122 Stat. 3078, 3327, Congress prohibited the Department from promulgating any regulation with respect to standards of accreditation, including standards for student achievement. As a result, the Department can only determine if an accreditation agency has standards; it cannot direct an agency to improve or raise its standards.

Question 2. To your knowledge, after discovering that many accrediting agencies lack credit hour definitions, did any of these agencies begin to define a credit hour? Do they now have these definitions in place voluntarily?

Answer 2. We can speak only to the regional accrediting agencies we evaluated. At the time of our inspections, none of them had begun to develop a definition of a credit hour and none indicated plans to do so.

QUESTIONS OF SENATOR BROWN

Question 1. Besides more meaningful standards for programs length, are there other areas that need strengthening in the accreditation process or in the Department of Education's process for recognizing accrediting agencies?

Answer 1. As the Department is prohibited from developing criteria for an accrediting agency's standards for accreditation, the Department is very limited in its ability to require meaningful standards for accreditation. Removing the restrictions on the Department's authority to regulate the standards for accreditation could strengthen the recognition process and help ensure that accrediting agencies fulfill their obligation to serve as reliable authorities of the quality of education funded by Federal taxpayers.

Question 2. In your testimony, you state that over the years, you have identified a relationship between rapid growth and failure to maintain administrative capability. Can you give us some examples from higher education?

Answer 2. The student aid programs under title IV of the HEA are very complex and there are many requirements for the Financial Aid Administrator (FAA) at a school to account for the funds, assure all students are eligible for the awards, assure students are in attendance, disburse the funds, assure students are maintaining satisfactory academic progress, determine when students stop attending, and calculate and pay refunds of title IV funds. These are key factors in assessing the statutory requirement for a school to have administrative capability to manage the title IV programs. As enrollment of students increases at a rapid rate, the school has to assure it has sufficient knowledgeable and trained FAA staff to keep current with all the title IV requirements. For example, at TUI University, private investors purchased the school from Touro University and continued to increase enrollment in an all distance education environment. Our audit found that TUI did not have adequate policies and procedures in place as it grew for ensuring student eligibility for title IV funds at the time of disbursement and for identifying students who had withdrawn from the institution. Other examples include Capella University that could not assure students were attending or that it calculated refunds correctly and the University of Phoenix that has been cited several times for incorrectly calculating refunds.

QUESTIONS OF SENATOR CASEY

Question 1. The President has set the goal of the United States leading the world in college graduates by the year 2020. In your opinion, what is the role of for-profit colleges in trying to achieve this goal?

Answer 1. As required by the HEA, proprietary schools must offer programs of instruction that prepare students for gainful employment. It is critical that the programs they are offering lead to successful employment opportunities that provide the graduates the ability to repay their student loan debt. It also is critical that the proprietary schools do not use high-pressure recruiting tactics, do not overstate the future earnings potential for graduates, and provide programs with high graduation and placement rates. In this capacity, proprietary schools providing quality programs that result in skilled graduates for existing employment opportunities at reasonable earnings potential, can be an asset to achieving the President's goal.

Question 2. What are for-profit schools currently required to report to the Department of Education around graduation rates and placement rates? How are placement rates tracked?

Answer 2. The HEA requires all institutions to disclose graduation rates to students and to the Department through the Integrated Post-Secondary Education Data System, known as IPEDS. These rates are posted on the Department's College Navigator Web site as consumer information. The graduation rates are not audited numbers, so they depend solely on the accuracy of school reporting. We are not aware of any requirement for the schools to report placement rates.

Question 3. What, if any, statutory or regulatory changes should be made to strengthen the rules governing for-profit colleges? Are the penalties strong enough to hold these institutions accountable?

Answer 3. The 90/10 rule applies only to proprietary schools and reflected a judgment by Congress that schools should be of sufficient quality to attract at least 10 percent of their funding from sources outside the HEA. The HEOA, however, weakened this rule by allowing additional revenues to count towards the institutional 10 percent. The 90/10 rule was designed as a proxy for quality, but most schools have met this rule over the years. Congress could explore alternatives to the 90/10 rule, such as requiring minimum graduation and placement rates in occupations that allow students to repay student loan debt. Also, Congress could explore and consider limitations on the amount of title IV funds revenues received by the schools that can be used to pay for advertising, marketing and recruiter salaries, or other non-instructional costs. Regarding available penalties, the HEA and the Department's regulations do contain effective remedies that would allow the Department to hold institutions accountable when violations are discovered.

Question 4. What regulations are currently in place to prevent schools from misleading students about things like program accreditation?

Answer 4. 34 CFR Part 668, Subpart F authorizes the Department to limit, suspend, terminate or fine an institution that misrepresents the nature of its education programs and financial charges or the employability of its graduates. Prohibited misrepresentations under these regulations are limited and difficult to prove. In its Notice of Proposed Rulemaking (NPRM) published June 18, 2010, 75 Fed. Reg. 34806, the Department has proposed significant changes to improve these regulations and expand the definition of prohibited misrepresentations.

QUESTIONS OF SENATOR HAGAN

Question 1. Inspector Tighe, in your testimony you state that distance education both at proprietary and non-profit institutions is an area that is placing increased demands on your investigative and audit resources, and that there is need for greater oversight and for regulatory authorities to evolve with the industry. I believe that there is great value in distance learning and online education. Can you elaborate on the concerns surrounding online education and offer your recommendations for ensuring that students who are interested are able to receive a quality education online?

Answer 1. We have found that distance education schools lack adequate internal controls to assure that students are enrolled and attending and thus are eligible for title IV funds. This issue needs to be addressed in law and/or regulation with a common definition of attendance and academic engagement in the distance education environment. Common definitions would provide for better oversight by regulatory authorities and help ensure students are provided a quality education at the postsecondary level. As we have separately reported, accrediting agencies have not established standards to determine credit hour and program length for either online or traditional programs. In addition, online programs are particularly vulnerable to fraud committed by would-be beneficiaries as there is no requirement for confirmation of the identity of student aid applicants. We have an extensive number of cases involving gangs that have defrauded institutions and the title IV programs by posing as regular students to obtain cash disbursement of title IV funds for non-institutional charges such as living expenses. Congress and the Department could explore practical options to confirm identity of applicants and reduce the opportunity for this type of fraud.

Question 2. At the end of fiscal year 2010, there are estimated to be over $700 billion in outstanding, federally backed student loans. Taxpayers are backing almost all of those loans. I realize that this question can apply equally to non-profit institutions as well, but since we're talking about the for-profit industry today, could any of the witnesses tell me what specific, quantitative measurements we have across the industry to tell us what the taxpayers are getting for all that money? What sort of industry-wide performance measures are available to help us better understand the performance of institutions that survive on the largess of the taxpayer?

Answer 2. Other than graduation rates, we are not aware of a quantitative measure applicable to all title IV participating institutions that is currently required and available to assess the investment of taxpayer dollars provided through the title IV programs. As I cautioned in a prior answer, graduation rates are not audited and depend solely on the accuracy of school reporting.

Question 3. Some say that the for-profit sector is highly regulated with oversight from the U.S. Department of Education, State licensure agencies and accrediting bodies. Others may disagree, citing that much more needs to be done. That said, what are your thoughts on how can we better align the goals of each of these agencies so that everyone is demanding the highest quality outcomes for every institution?

Answer 3. In our experience, we have seen very little oversight of the for-profit sector by State licensing agencies and accrediting agencies that identifies the types of abuses we continue to find in the for-profit sector. We believe that accrediting agencies need to be held accountable for developing and enforcing meaningful standards and that States need to have standards to assess the quality of institutions for which they provide authorization to operate in their State. Congress could consider statutory changes to ensure accrediting agencies have meaningful standards, and that accrediting agencies are required to share information with State licensing agencies.

Question 4. Many of you in your testimony mention the "90/10 rule", the provision that requires proprietary institutions of higher education to have at least 10 percent of the institution's revenues from sources that are not derived from funds provided through Federal financial aid. Is there a way to more accurately track the percentage of title IV dollars that schools receive?

Answer 4. In our experience, determining the actual title IV dollars received has not proved an administrative difficulty in properly applying the 90/10 rule. The major difficulty has been determining whether schools have, in fact, received in excess of 10 percent in non-title IV revenue. We have found that many institutions have not calculated the 90/10 rule percentage correctly. Despite errors in calculation, schools generally have not failed the rule. Congress could consider alternatives to the 90/10 rule, such as requiring minimum graduation and placement rates in occupations that allow students to repay student loan debt. If investment of taxpayer dollars was providing a reasonable return on investment by students benefiting from the programs and not being saddled with unmanageable loan debt, then providing more than 90 percent of institutional revenue from title IV should not be as great a concern.

Question 5. As you know, the purpose of this hearing is for all of us to get a better sense of how well the for-profit education industry is serving students. We know that there are good actors as well as bad actors in the for-profit education industry. For those of us who want to ensure that anyone who has the drive and desire to get a high-quality education is able to do so, how do you suggest we work together to better identify those schools that are getting the job done and those that aren't?

Answer 5. We believe the Department's current effort to define "gainful employment" and establish data metrics that would demonstrate that students, particularly student borrowers, have obtained "gainful employment" is worthwhile. The Department's proposal to eliminate all "safe harbors" from the incentive compensation rules should help reduce the financial incentives that lead to title IV violations. We have repeatedly recommended establishing requirements for completion and placement rates, which could also establish that students are benefiting from taxpayer-supported education. Providing statutorily mandated minimum graduation and placement rates, requiring those rates to be substantiated through the annual audit process, and requiring the reporting of the rates to the Department and posting on its Web site would provide for reliable consumer information. Congress could also require that accrediting agencies provide publicly disclosed serious issues they identify with in the quality of education provided by member schools.

QUESTIONS OF SENATOR ALEXANDER

Question 1. One of my concerns is that there does not seem to be a very adequate set of data tools to look at institutions of higher education and fairly distinguish between a "good" actor and a "bad" actor. What data would you recommend that we should start gathering so that we can make these distinctions fairly and accurately?

Answer 1. We share your concern that using data to effectively identify and distinguish "good" and "bad" actors is a challenge. Working in conjunction with the Department, we have utilized and analyzed program data to identify possible high risk institutions. Much of this data though does not in and of itself allow a determination that a school is a "bad" actor. Additional audit, investigative, or program review is needed to determine actual violations of title IV requirements. While certain data, such as failure to pay refunds or excessive default rates, can allow an adverse judgment to be made, most data allow only a conclusion that some institutions are more high risk than others.

We recommend pursuing data that allows Congress to conclude that Federal funds are being effectively spent and that students are benefiting from education received. In this regard, we believe the Department's current effort to define "gainful employment" and establish data metrics that would demonstrate that students, particularly student borrowers, have obtained "gainful employment" is worthwhile. We have repeatedly recommended establishing requirements for completion and placement rates which could also establish that students are benefiting from taxpayer-supported education.

The June 24 hearing raised concerns that certain institutions may be devoting only a small fraction of title IV revenue to actual instruction. At some institutions, a disproportionate share of Pell Grant funds and loan indebtedness incurred by students may be effectively devoted to marketing, compensation of recruiters and other non-instructional costs, rather than to provision of education that could improve the employability of students.

Question 2. Do you believe that the proposed regulations on credit hour still provide enough flexibility for institutions of higher education to develop new and innovative program offerings like a 3-year degree, delivery of instruction through new technology platforms, and other ways that we may not even be able to envision today?

Answer 2. We believe the proposed regulation on credit hours will provide flexibility for institutions to develop new and innovative programs; however, the onus will be on accrediting agencies and the degree of rigor they bring to their reviews of the assignment of credit hours by institutions that do not use the 1 hour of instruction and 2 hours of outside preparation as the standard for their credit hour assignment. Furthermore, even with the definition of a credit hour, there is concern over whether the instruction being offered by the institutions is actually at the postsecondary level. It is also worth noting that because of the cycle of accreditation, any definition of a credit hour finally adopted this year will not be fully evaluated at every institution participating in the Federal student aid programs until 10 years after July 1, 2011 (the earliest date that any new regulation finalized this year can take effect).

Question 3. You cite the conversion to the Direct Loan program as a significant issue for you and your staff at the Inspector General, as well as the staff at the Department since the Department will now have to perform school loan oversight previously performed by guaranty agencies, like the Tennessee Student Assistance Corporation. What types of requirements do you think need to be added to ensure the smooth operation of the Direct Loan program? Now that the Department of Education is the 6th largest bank, do you think that there are any changes that need to be made to the Department's Federal Student Aid office to preserve the integrity of the program? What legislative changes do you recommend?

Answer 3. Last year, the Department awarded new contracts to four of the largest loan servicers in the FFEL program to service FFEL loans purchased under the ECASLA programs and to service all the new Direct Loans along with its existing Direct Loan servicer. Providing adequate contract oversight of the servicers and other contractors by the Department will be critical. Regarding the oversight of schools, we are aware that the Department is in the process of hiring additional program reviewers with the technical skills to increase its oversight of compliance by schools, but we have not reviewed the adequacy of the Department's staffing plan. We are currently examining the applicability of Federal bank fraud statutes to determine if similar statutory provisions for enhanced program integrity should be recommended for the Department, as they have been for other Federal lending programs.

QUESTIONS OF SENATOR COBURN

Question 1. What role do States play—above and beyond the role currently played by the Federal Government—in ensuring the quality and integrity of post-secondary degree programs? Are States best positioned to make qualitative judgments about post-secondary institutions and to police improper behavior?

Answer 1. While we have not performed a comprehensive review of the oversight role performed by the States, in our experience States do not consistently provide effective oversight of proprietary schools or actively police improper behavior. The Department of Education described concerns that exist over inconsistent State oversight in its June 18, 2010 NPRM in connection with its proposal to define the State authorization required to establish eligibility to participate in the Federal student aid programs. 75 Fed. Reg. 34812–13. The Department noted that substandard institutions and diploma mills set up operation in States that provide very little oversight. The Department also stated its concern that some States are deferring all or nearly all of their oversight responsibilities to accrediting agencies.

Question 2. How do the cohort default rates of for-profit colleges compare to 2-year colleges and minority serving institutions?

Answer 2. On May 2, 2010, the Department released draft fiscal year 2008 cohort default rates: *http://www.ifap.ed.gov/eannouncemems/043010FY08DraftStuLoanCDR.html*. The Department provided a comparison (attached) of the draft fiscal year 2008 cohort default rates with the final fiscal year 2006 and fiscal year 2007 rates, broken down by school type. According to the draft rates, all proprietary schools had a fiscal year 2008 cohort default rate of 11.9 percent (106,019 borrowers in default); 2–3 year public institutions had a fiscal year 2008 cohort default rate of 10.3 percent (50,379 borrowers in default). However, the cumulative lifetime default rates and budget lifetime default rates are significantly higher. For example, the 2007 budget lifetime default rate for 2-year proprietary schools is 47.0 percent.

COMPARISON OF FY 2008 DRAFT COHORT DEFAULT RATES
TO PRIOR TWO OFFICIAL CALCULATIONS

CALCULATED JANUARY 2, 2010

	Fiscal Year 2006 Official				Fiscal Year 2007 Official				Fiscal Year 2008 Draft			
	# of Schools	Borrower Default Rate (%)	# of Borrowers Defaulted	# of Borrowers Entered Repayment	# of Schools	Borrower Default Rate (%)	# of Borrowers Defaulted	# of Borrowers Entered Repayment	# of Schools	Borrower Default Rate (%)	# of Borrowers Defaulted	# of Borrowers Entered Repayment
Public	1,646	4.7%	94,627	1,988,185	1,614	5.9%	102,919	1,721,629	1,619	6.2%	107,390	1,720,899
Less than 2 yrs	153	6.4%	529	8,178	144	7.5%	595	7,832	145	6.9%	546	7,833
2-3 yrs	878	8.4%	44,439	523,749	846	9.9%	48,287	483,721	850	10.3%	50,379	487,744
4yrs(+)	615	3.4%	49,659	1,456,258	624	4.3%	54,037	1,230,076	624	4.6%	56,465	1,225,322
Private	1,748	2.5%	26,735	1,055,567	1,718	3.7%	29,558	778,296	1,707	4.1%	31,411	762,386
Less than 2 yrs	56	10.0%	359	3,589	46	12.6%	449	3,538	44	14.3%	546	3,794
2-3 yrs	190	6.1%	1,122	18,278	188	8.1%	1,204	14,798	184	8.2%	1,239	15,079
4yrs(+)	1,502	2.4%	25,254	1,033,700	1,484	3.6%	27,905	759,960	1,479	3.9%	29,626	743,513
Proprietary	1,988	9.7%	82,995	855,523	2,008	11.0%	92,731	838,328	2,093	11.9%	106,019	886,743
Less than 2 yrs	1,008	10.9%	15,426	140,302	1,039	12.0%	15,603	129,627	1,086	12.5%	15,392	122,768
2-3 yrs	728	11.1%	29,976	267,869	702	12.5%	33,030	262,640	730	12.9%	35,776	275,850
4 yrs(+)	252	8.4%	37,593	447,352	267	9.8%	44,098	446,061	277	11.2%	54,851	488,125
Foreign	466	1.2%	150	12,359	435	2.2%	163	7,276	419	2.2%	177	7,880
Unclassified	1	0.0%	0	6	1	0.0%	0	5	1	0.0%	0	4
Total	5,849	5.2%	204,507	3,911,640	5,776	6.7%	225,371	3,345,534	5,839	7.2%	244,997	3,377,912

The Department does not currently publish a report on the cohort default rates of minority serving institutions. The cohort default rate for individual schools is available at *http://wdcrobcolp01.ed.gov/CFAPPS/COHORT/search__cohort.cfm.*

Question 3. Under the new 3-year cohort default rules slated to take effect, what rewards accrue to a college or university with low cohort default rates? What sanctions do colleges or universities incur for high cohort default rates in the first, second and third year of high rates (over 30 percent)?

Answer 3. Under the rules published October 28, 2009, 74 Fed. Reg. 55,626, there are no new benefits or regulatory relief afforded to schools with a low cohort default rate. Institutions with a cohort default rate greater than 40 percent in a single year lose eligibility to participate in the Direct Loan program; schools with cohort default rates over 30 percent for 3 consecutive years lose eligibility to participate in both the Direct Loan and the Pell Grant programs. There are no sanctions for exceeding 30 percent in the first 2 years. The new cohort default rate calculation will be effective beginning with the fiscal year 2009 cohort, so the first official 3-year cohort default rate will not be issued until September 15, 2012. However, no institutional sanctions will be taken based on the new calculation until 3 consecutive cohort years of the new rates have been calculated. During the transition period, sanctions will be based on calculations made according to the pre-HEOA calculation.

Question 4. In your testimony, you discuss the recent changes to the student loan program and the need for the ED-OIG to be vigilant in its oversight in the coming months and years. Please elaborate on this point. What is the ED-OIG's oversight plan for monitoring both the transition and long-term implementation of the Federal Direct Loan Program? For those of us who want to ensure that anyone who has the drive and desire to get a high-quality education is able to do so, how do you suggest we work together to better identify those schools that are getting the job done and those that aren't?

Answer 4. We have conducted a preliminary assessment of the Department's plans regarding the Direct Loan program to assure it has the technical capacity to originate all Direct Loans at the peak processing period of mid-August. We are performing a separate quick assessment to determine if the Department has made adequate revisions to key contracts, if deliverables under contracts have been met, and if there is a contingency plan; we are also identifying how the Department is providing technical assistance to schools during the transition. This review should be issued in early August.

During the next fiscal year, we are planning reviews of the new title IV servicers and additional reviews at the Department to assess its oversight of contractors, how it identifies risks that schools present to the title IV programs, and how it performs oversight of school compliance. As part of our annual audit of the Department's Financial Statements we will be evaluating how the Department is accounting for Direct Loan originations, the status of those loans, and subsidy costs. As part of our annual FISMA audit, we will be evaluating the IT security at selected Department contractors. As part of our long-term plan, we will continue to assess and identify any new emerging areas of risks in the Direct Loan program.

RESPONSE TO QUESTIONS OF SENATOR CASEY AND SENATOR HAGAN BY YASMINE ISSA

QUESTIONS OF SENATOR CASEY

Question 1. The President has set the goal of the United States leading the world in college graduates by the year 2020. In your opinion, what is the role of for-profit colleges in trying to achieve this goal?

Answer 1. For-profit schools have a financial interest in attracting high enrollment to attain government funding and there is no evidence showing a corresponding high focus on instruction. Additionally, there is no evidence showing improvement in the quality of education afforded students and no assurance that outcomes promised to students upon enrollment are realized after graduation.

Question 2. What are for-profit schools currently required to report to the Department of Education around graduation rates and placement rates? How are placement rates tracked?

Answer 2. While I am not an education policy expert, my experience leads me to believe that government funding to for-profit colleges should include reasonable thresholds requiring minimum graduation percentage and acceptable levels of job placement.

Question 3. What, if any, statutory or regulatory changes should be made to strengthen the rules governing for-profit colleges? Are the penalties strong enough to hold these institutions accountable?

Answer 3. The penalties are clearly not strong enough because, in my view, there have been little or few repercussions when for-profit colleges have failed to meet promises to students or to the government, who funds them. The experience I described during my testimony is an example of false promises made and a placement that was never realized.

QUESTIONS OF SENATOR HAGAN

Question 1. At the end of fiscal year 2010, there are estimated to be over $700 billion in outstanding, federally backed student loans. Taxpayers are backing almost all of those loans.

I realize that this question can apply equally to non-profit institutions as well, but since we're talking about the for-profit industry today, could any of the witnesses tell me what specific, quantitative measurements we have across the industry to tell us what the taxpayers are getting for all that money? What sort of industry-wide performance measures are available to help us better understand the performance of institutions that survive on the largess of the taxpayer?

Answer 1. A major difference between not-for-profit and for-profit colleges is that many for-profit colleges make "promises" and "guarantees" to students as a selling point to attract them to their institutions. Not-for-profit schools do not necessarily offer guarantees for placement yet, in my experience, they offered an accredited degree, which would have made all the difference in placement. Given those facts, students take on a higher risk for their loans at for-profit colleges.

Question 2. Some say that the for-profit sector is highly regulated with oversight from the U.S. Department of Education, State licensure agencies and accrediting bodies. Others may disagree, citing that much more needs to be done.

That said, what are your thoughts on how can we better align the goals of each of these agencies so that everyone is demanding the highest quality outcomes for every institution?

Answer 2. No Response.

Question 3. Many of you in your testimony mention the "90/10 rule," the provision that requires proprietary institutions of higher education to have at least 10 percent of the institution's revenues from sources that are not derived from funds provided through Federal financial aid.

Is there a way to more accurately track the percentage of title IV dollars that schools receive?

Answer 3. No Response.

Question 4. As you know, the purpose of this hearing is for all of us to get a better sense of how well the for-profit education industry is serving students. We know that there are good actors as well as bad actors in the for-profit education industry.

For those of us who want to ensure that anyone who has the drive and desire to get a high-quality education is able to do so, how do you suggest we work together to better identify those schools that are getting the job done and those that aren't?

Answer 4. Government funding for for-profit schools should be linked to agreed upon standards, such as the demonstration of successful graduation and placement rates. Looking back on my experience, I would have been more wary had I known that students who attended my program faced challenges getting a job because of their accreditation status. I don't think what happened to me should continue.

July 12, 2010.

Hon. MICHAEL B. ENZI, *Ranking Minority Member,*
Committee on Health, Education, Labor, and Pensions,
SD–428, Dirksen Senate Office Building,
Washington, DC 20510.

Re: List of Suggestions for Eliminating the Bad Actors, While Ensuring the Good Actors Can Fulfill Their Role

DEAR SENATOR ENZI: During the hearing, "Emerging Risk?: An Overview of Growth, Spending, Student Debt and Unanswered Questions in For-Profit Higher Education," held on June 24, 2010, you asked what could be done to eliminate the bad actors among post-secondary proprietary schools, while ensuring the good actors can fulfill their role. I indicated that there was not time to go into all of the things that could be done to eliminate the bad actors among post-secondary proprietary schools, while ensuring the good actors can fulfill their role. You asked me to supply a list after the hearing and I agreed.

In making these suggestions, I am aware of the long reported history of fraud, abuse, and failure to adequately train students in the proprietary school sector. Past efforts at the Federal level and in some States to sort the good from the bad have at times made progress, but have often been insufficient. I believe that good schools can continue to flourish under the changes listed below. In general, most of the suggestions are remedies that have been used by California or other States or are revisions to laws that were enacted after the Nunn hearings, but have been weakened over time. Some remedies have been widely discussed, and I will only mention them briefly as you are undoubtedly already familiar with them. First, I list the suggestions. More detail about each suggestion is then included in the body of this letter:

1. Define and Enforce the Longstanding Requirement that Proprietary Programs (and certain other programs) Prepare Students for Gainful Employment.
2. Strictly Prohibit Quotas and Incentive Compensation for Recruiting and Financial Aid.
3. Publish and Base Continued Eligibility on Life-time Cohort Default Rates.
4. Require Real Standards for State Authorization Agencies.
5. Reform Accrediting Agency Role and Requirements.
6. Revise 90/10 Requirement.
7. Change Incentives for Private Lenders and Schools by Ensuring the Existing FTC Holder Rule Is Enforced Against Lenders.
8. Study and Establish Appropriate Standards for Distance Education.
9. Require Cancellation Periods and Pro-rata Refunds, and Prohibit Contractual Obligation or Payment Beyond One Term or 4 Months.
10. Require Ability to Benefit Testing, Either for All Students, or at Least for All Students Who Did Not Graduate From a Public High School; Eliminate 6 Unit Alternative Measure for Entrance Until Sufficient Study at Proprietary Schools Has Occurred.
11. Expand Bases for Loan Discharge and Require Reimbursement from School or Lender or Allow Students to Seek Remedies Directly from School and Lender.
12. Consider Establishing Tuition Recovery Fund.
13. Require a Higher Ratio of Current Assets to Liabilities.
14. Direct More Federal Funds to Community Colleges.

1. DEFINE AND ENFORCE THE LONGSTANDING REQUIREMENT THAT PROPRIETARY PROGRAMS (AND CERTAIN OTHER PROGRAMS) PREPARE STUDENTS FOR GAINFUL EMPLOYMENT

Congress apparently first noted the widespread exploitation of students by proprietary schools after enactment of the GI bill after World War II. The House Select Committee to Investigate Educational, Training, and Loan Guaranty Programs under GI Bill, 2/14/1952 describing the abuses in the GI Bill from 1944 to 1950 in connection with recommending safeguards for veterans of the Korean War noted, inter alia:

"Exploitation by private schools has been widespread."

"There was a rapid uncontrolled expansion of private profit schools . . ."

"Many schools have offered courses in fields where little or no employment opportunity existed."

"Training programs have been approved for unskilled or semi-skilled occupations where little or no training was required, resulting in needless expenditure of funds and waste . . ."

With reason, when Congress later added proprietary schools to the Higher Education Act, it specified that only schools that prepared students for gainful employment were eligible. However, the Department of Education has never defined, much less made much of any attempt to enforce this requirement. In the negotiated rulemaking on program integrity the Department initiated in 2009, the Department proposed a definition that is a modest step toward enforcement of this requirement. The proposal, which it has yet to officially propose, would set a flag to identify programs for which the students' median loan debt would be more than 8 percent of the projected salaries (at the 25th decile of salaries determined by the Bureau of Labor Statistics for the occupations for which the training is to prepare students). Programs that could not meet that standard would still be eligible if the school could demonstrate that the median debt load is less than 8 percent of the actual salaries graduates of those programs earn, or if 90 percent of the graduates of the program did not default (with "default" defined more accurately than under the current cohort default rate standards).

Given that the 8 percent standard is usually used by lenders to determine the amount of all non-housing debt a borrower should reasonably carry, and that many students at proprietary schools are older and already have other debts such as auto loans and credit card debts, the 8 percent standard may be too high, especially for those whose salaries would be less than 150 percent of the poverty level. Nevertheless, it is a modest, reasonable first step. I believe the debt load of those who enroll, but do not complete also needs to be considered, so that there is no temptation for the bad actors to discourage those with the highest debt loads from completing the course, in order to lower the median debt load of students in a program.

The Department's proposal, however, deals only with the "gainful" part of the phrase, not with the "employment" part. If a school does a poor job of training students, even if the program met the 8 percent or related criteria mentioned above, it might still have a minority of graduates who could actually obtain employment. Consequently, a requirement that proprietary school programs' graduates meet a certain level of employment is a necessary accompaniment. In California, for example, for 19 years, proprietary schools were required to have at least 70 percent of the graduates from a program obtain employment within 6 months, in a position that lasted at least 60 days, for at least 32 hours a week. (Part-time employment could also count if the student had specified in advance of the program and at the end that the student only wanted part-time employment.) As was obvious from my testimony, there needs to be some way to verify that claimed employment levels are true. One suggestion for accuracy in employment statistics is to require use of State unemployment insurance data, which some States already do for community colleges.

A current provision under the Higher Education Act, which was enacted back when most programs were much shorter, applies only to short courses. The Department has now proposed to apply it more broadly, so far, as a reporting device only. Based on my experience, while accurate reporting would be helpful, the existing provision would not be useful. The provision is very flawed, inter alia, in that the documentation of employment allowed would not demonstrate that the employment really meets the standard.

And, as noted above, completion rates also need to be tracked, and a standard set to insure schools are not manipulating the data by discouraging completion by students they consider least likely to be able to get a job. In California, for example, after certain exceptions—death, military service, those who canceled within the 100 percent full refund cancellation period, etc.—authorized programs had to show 60 percent of those enrolled completed the program.

I view such standards as critical to separating out the good from the bad actors. Good schools would continually evaluate their programs, eliminating or revising those that have high debt levels in comparison to salaries available or whose graduates are unable to find work in the field in which they trained. The proprietary schools' lobbying arm, CCA, has represented that more than 80 percent of the programs it surveyed would meet the 8 percent flag, and likely additional programs would meet one of the two alternatives, although CCA did not run the numbers for the alternatives. It is unclear how many programs would meet a 70 percent employment requirement, but most national accrediting agencies already claim to have that high, or a higher standard. In California, until 2008, that was the standard schools were required to meet. The requirement did not seem to have slowed the development of proprietary schools in California (although the State agency charged with enforcement apparently did little to enforce the law).

Schools should also be required to report on their Web sites, if they have one, their statistics for each program offered, as well as to provide a fact sheet to every prospective student showing the information for the program in which the prospective student has expressed an interest. Currently, there is no competition among schools based on such quality factors because those factors are not transparent. Making them transparent, if they are verified/monitored for accuracy, would provide some possibility of competition arising based on these quality criteria. Such real competition would help the good schools.

Of course there might need to be provisions related to an employment requirement to address extraordinary circumstances, such as limited employment available in a particular region after a major disruption, e.g., after hurricane Katrina, or to address the time lag for getting the results from licensing exams.

2. STRICTLY PROHIBIT QUOTAS AND INCENTIVE COMPENSATION FOR RECRUITING AND FINANCIAL AID

The recent Department of Education proposed regulation on incentive compensation goes a long way to restoring the full intent of the statute prohibiting incentive compensation. I am concerned however, that a few possible loopholes may still exist and will be working with others to comment on the proposed rule. In addition, I also recommend a statutory change to make very clear that the use of quotas in connection with compensation for such staff is prohibited. From the information I have seen, it appears schools may be trying to get around the prohibition on incentive compensation by setting quotas and punishing in some way or firing those who do not reach the quota. While this may well be covered under the current statute, additional clarity would be advisable.

The payment of incentive compensation or the use of quotas for those involved in or supervisors over admissions or financial aid tasks is particularly pernicious. Prospective students are likely to trust the “admissions advisor” or “financial aid advisor” as a person there to assist them. Prospective students don’t readily realize they are dealing with commissioned sales persons, as they would when, e.g., buying a car.

Good schools can compete on the basis of quality, and need not compete on incentives. The natural result of incentives/quotas is to encourage some of the types of abuse noted at the hearing, including misrepresentations, enrolling students ill-suited to a particular training program, or providing training that does not qualify the graduates for employment.

3. PUBLISH AND BASE CONTINUED ELIGIBILITY ON LIFE-TIME COHORT DEFAULT RATES

Proprietary schools first came fully into the Higher Education Act financial aid programs in 1972. By the mid-80s, stories of fraud and abuse and high default rates were accumulating. One of the provisions enacted after the 1992 hearings by the Senate Permanent Subcommittee on Investigations was to eliminate from eligibility schools with high default rates. Initially, that change had an impact, but the rule has been watered down over the years, and schools have learned how to manipulate the data to prevent defaults from showing up within the time (2, soon to be 3 years) in which defaults are measured. Both the Inspector General and the GAO have pointed out that the cohort rate is a misleading indicator. It is a mere snapshot in time that does not give a full picture of default trends.[1]

There are problems not only with the time period, but also with the cohort rate calculation method. In addition, the default measure does not include borrowers that are current, but struggling with overly burdensome debt or borrowers that are delinquent, but not yet in default. These problems are expected to grow as interest rates rise along with borrowing levels.

Unless cohort default rates are tracked for life, schools will continue to be able to manipulate this limitation. Additionally, the default rate cut-off applied to each interval of time should be a reasonable measure of defaults in similar credit markets that are not skewed by an influx of Federal loans.

[1] See, e.g., U.S. Department of Education, Office of Inspector General, “Final Audit Report: Audit to Determine if Cohort Default Rates Provide Sufficient Information on Defaults in the Title IV Loan Program”, ED–OIG/A03–C0017 (December 2003); General Accounting Office, “Student Loans: Default Rates Need to be Computed More Appropriately,” GAO/HEHS–9–135 (July 1999).

4. REQUIRE REAL STANDARDS FOR STATE AUTHORIZATION AGENCIES

Traditionally, the Higher Education Act has depended on the triad of oversight, requiring a school to be accredited by a recognized accrediting agency, to be "legally authorized within [the State in which it operates] to provide a program of education beyond secondary education," and to submit to the provisions of a participation agreement with the Department of Education. Currently, however, proprietary schools and their allies, the accrediting agencies, have successfully lobbied many States to rely on accreditation for most, if not all of their State oversight responsibilities. The Department of Education recently proposed a regulation that would require States to undertake at least some of the responsibilities contemplated by law, but apparently under pressure from some schools and accrediting agencies, failed to fully address the statutory requirements for State oversight. Current law requires the State agency to notify the Department of Education promptly of any fraud or substantial violation of the Higher Education Act, but the proposed rule does not require the State to have any mechanism by which it would be likely to notice such conduct.

The Department has never had sufficient resources to adequately police the fraud and abuse in the proprietary sector. In my experience, local or State agencies are in a much better position to learn about problems early. As discussed below, accrediting agencies are not designed to fulfill this role. The Department's proposed regulation needs to be strengthened or the law needs to be revised to make clear that schools are not eligible if the State agency in the State in which the school operates relies on accrediting agencies for its essential functions. State agencies must themselves approve schools, monitor their compliance with provisions of the Higher Education Act or with State provisions that are as strong, or stronger than the Higher Education Act, and act to revoke authorization of schools that are not in compliance.

5. REFORM ACCREDITING AGENCY ROLE AND REQUIREMENTS

As was pointed out at the hearing, the advisory commission that recommends to the Department of Education about accrediting agency recognition is heavily loaded with representatives or employees of schools that live or die by accreditation; there is an incestuous relationship between accrediting agency boards and the schools they accredit; and schools are using purchase of small, previously accredited schools to gain accreditation, then expanding the schools beyond all recognition of the school and programs originally accredited. As I pointed out, virtually every school I have prosecuted was accredited, but accreditation did not address the poor outcomes, nor stop abuse and fraud. Typically, among other limitations, accrediting agencies have very small staffs, rely on staff from members to evaluate other members, do not have trained investigators or prosecutors involved in designing their oversight activities, do not set specific enough "standards" so that one can tell if they have been violated, have non-transparent procedures, and keep information about problems gathered confidential.

At a minimum, the advisory commission needs to be revised so that the majority represents consumer and student interests, not the interests of schools that depend on accreditation. To the extent the financial aid programs continue to rely on accrediting agencies, the Department needs to specify minimum uniform criteria, particularly outcome criteria which all recognized accrediting agencies will monitor for compliance. Criteria, such as how much work is required for a unit of credit should not be based on accrediting agency determinations, but should be set by the Department, and monitored by accrediting agencies.

6. REVISE 90/10 REQUIREMENT

One of the requirements that came out of the 1992 hearings on proprietary school fraud and abuse was the requirement that at least 15 percent of a school's revenues should come from other than Federal funds. This provision was derived from, but did not track the requirement for Veterans' programs. The rule for Veterans' programs was that at least 15 percent of the students must not use the GI benefit to pay for their schooling. This requirement was established because after the first GI bill, proprietary schools developed to capture the veterans benefits proliferated, and fraud and abuse were rampant (see above). Proprietary schools later successfully reduced the percentage not from Federal funds to 10 percent, and then got the law changed to allow non-title IV Federal funds to be included in that 10 percent. Nevertheless, proprietary schools continue to operate near the 90 percent title IV subsidized margin. Some proprietary schools now offer school financing, on which they admit they expect to collect less than 50 percent, apparently, in part, to come up with enough non-Federal funding to meet the watered down 10 percent. Apparently and perversely, some proprietary schools are increasing their fees above the amount available in title IV grants and loans so that at least 10 percent of the cost cannot be from title IV funds.

Even if one looks at just independent students taking 4-year programs at public, nonprofit, and for-profit schools, the percentage of borrowers varies dramatically. In the publics and non-profits, 24 percent to 31 percent of students have no Federal loans, but at the for-profits, only 4 percent do not have Federal loans. The concept of the Veterans' 85/15 limit is that in the marketplace, a good school could attract at least 15 percent of its students without reliance on the Veteran benefit. The 90/10 limit under title IV needs to be restructured to be 85/15 and to apply not to revenues, but to the numbers of students who take out loans. Proprietary schools will likely argue that because they attract a lower income student, such a restriction would not be possible for them. One has to wonder, however, if they are providing a good education, why they are not also attracting some higher income students. Some higher income students do want to become radiologists, vocational nurses, computer technicians or obtain Bachelors' or advanced degrees in career-focused fields. This change would incentivize proprietary schools not to raise tuition, but to lower it, as they would have to compete for students in the market generally, rather than just trying to maximize the financial aid the school can collect by selling dreams of a career to poor people.

This change would have to be accompanied by a strict requirement that the school must first make known to the student all financial aid the student can qualify for, before offering information about private, non-Federal loans so that schools would not just push students into even higher interest, less favorable private loans. It would also have to be accompanied by some changes in private loans, as discussed below.

7. CHANGE INCENTIVES FOR PRIVATE LENDERS AND SCHOOLS BY ENSURING THE EXISTING FTC HOLDER RULE IS ENFORCED AGAINST LENDERS

Under the Federal Trade Commission's rule, commonly referred to as the "Holder Rule," sellers of consumer goods and services are required to include a provision in credit contracts they assign to a lender, or in loans if they refer the consumer to the lender or arrange the loan, that makes the creditor subject to the same claims and defenses the purchaser could assert against the seller. This standard rule prevents a seller from selling a defective product, but having the payments due to another party who claims the right to collect, even though the product is defective. Unfortunately, some courts have held that if the seller (in this case, the school) does not see to it that the provision is in the credit document, the creditor is not bound by the rule.

The FTC does not regulate lenders, so it cannot require them to include the provision, and the agencies that do regulate lenders have failed to promulgate a parallel rule. This means that lenders need have little concern about whether the school is good or not. This inconsistency needs to be addressed so that lenders will have incentive to provide credit only for students at good schools, or to require schools to put up a deposit to cover potential future claims or defenses to payment.

In connection with the "holder" issue, schools which regularly select lenders to offer loans to their students, should be required to certify that the student has exhausted all means of Federal financing, before the school may suggest or offer the more expensive private loans, which do not have the same relief measures as Federal loans. This would also insure that when schools are determining their students' loan debt, they are including any private loans the student may have.

8. STUDY AND ESTABLISH APPROPRIATE STANDARDS FOR DISTANCE EDUCATION

This is probably the fastest growing segment of proprietary schools and the area most susceptible to abuse. Before 2006, eligible schools were limited to providing distance education, including correspondence courses, for no more than 50 percent of their students and no more than 50 percent of their courses. Despite caution from the GAO[2] that removing this limitation without better controls would lead to increased fraud and abuse, the limit was lifted as to telecommunications courses (those offered by electronic means), but not as to correspondence courses. The only limit on telecommunications courses is that they must provide regular and substantive interaction between the student and teacher, but that interaction need not

[2] General Accounting Office, "Distance Education: Improved Data on Program Costs and Guidelines on Quality Assessments Needed to Inform Federal Policy," GAO–04–279 (February 2004).

be synchronous. The only clarification of those terms states that the interaction must be at regular intervals and not be trivial.

This provision leaves the student financial aid programs wide open to fraud and abuse. Among other issues, for-profit schools may purchase a small, reputable school, then turn the school into a massive online college, with virtually no oversight. A further concern must be that schools that may have been providing good, needed hands-on programs at an on-site facility, will be tempted to reduce costs by going to all, or almost all on-line programs. Although telecommunications programs are required to be accredited, the GAO has found the same lack of accrediting agency standards here as noted above.

In her testimony, the Inspector General also noted her concern about the lack of measures to insure Federal dollars are not being spent for little or no benefit because of the lack of oversight of distance education programs. The 50 percent limitation on on-line programs needs to be restored until the means to prevent abuse can be studied and implemented. There needs to be a study to establish what requirements and monitoring needs to be implemented to prevent the massive potential for problems in this burgeoning area.

9. REQUIRE CANCELLATION PERIODS AND PRO-RATA REFUNDS, AND PROHIBIT CONTRACTUAL OBLIGATION OR PAYMENT BEYOND ONE TERM OR FOUR MONTHS

Each of these suggestions have in common that they offer a measure of self-help to students who may find themselves in one of the "bad actor" schools, and that they have been used in one or more States, to curb abuses, but without preventing good schools from flourishing.

In California, the State law for 19 years required proprietary schools to provide a full refund (except for a modest registration fee) to any student who canceled the program within the first 5 class days. That way, there was a chance the student would discover if the equipment or facilities were lacking, or if teachers were untrained or had no practical experience before the student had spent thousands of dollars on a worthless education. Other States prevent the school from keeping even a registration fee if the student cancels on or before the first day of class. While bad actor schools become adept at giving a good first impression, some students may discover the problems in this initial period.

For 19 years, California required proprietary schools to provide a full pro-rata refund throughout the program. That requirement reduced the churn from schools constantly admitting new students and ignoring students' needs once they passed an arbitrary 50 or 60 percent of the course. Oregon has used a similar concept, prohibiting schools from collecting from students or obligating students for more than one term or four months. Again, students under this system might lose some money on a bad school, but when they realize that things are not as represented, they are free to leave, without being obligated for many months more. Often students say that the school responds to their complaints by saying, the student already owes all the money, so there is no point to quitting out of dissatisfaction with the program.

10. REQUIRE ABILITY TO BENEFIT TESTING, EITHER FOR ALL STUDENTS, OR AT LEAST FOR ALL STUDENTS WHO DID NOT GRADUATE FROM A PUBLIC HIGH SCHOOL; ELIMINATE 6 UNIT ALTERNATIVE MEASURE FOR ENTRANCE UNTIL SUFFICIENT STUDY AT PROPRIETARY SCHOOLS HAS OCCURRED

To be admitted, students are supposed to have a high school diploma, or pass a test demonstrating their ability to benefit from the program being offered. Needless to say, this has been a well-known area where fraud occurs. The Department has recently proposed much-needed changes, but I believe those are inadequate to clean up this problem area.

There has been no definition of "high school diploma," so that proprietary schools could turn a blind eye to bogus diplomas which could be obtained for a fee. The Department has proposed to require schools to have procedures to deal with suspect diplomas, but the proposed rule still leaves a lot of room for turning a blind eye. Additionally, a high school diploma may not be adequate to determine if a prospective student has the basic skills needed for the coursework for particular careers.

Current rules require an ability-to-benefit test to be administered to non-high school graduates by an independent tester. This requirement has had limited impact, however, as testers are generally selected by the school, give the tests at the school, and rely on the school to maintain the tests and answer sheets. Apparently, the so-called "independent" testers do not run a business in which they have the facilities to guard the tests themselves. Recently, the GAO found in undercover operations that tests were not administered properly, but instead were compromised to ensure the student could be admitted.

Under the law, the Department is charged with determining appropriate test scores to allow eligibility. This is also problematic because the Department has not interpreted the law to require ability to benefit from the specific program for which a student is enrolling, but rather, to be simply the equivalent of having a high school diploma. Obviously, the beginning skills for, say, security guard, may be different from those required for a sonographer or radiologist or cosmetologist.

In addition, recently, on the basis of a study carried out in community colleges, an alternative measure—the successful completion of 6 units—is now allowed to determine whether a student may be eligible for Federal financial aid. This provision has been enacted, but there are virtually no regulations to prevent abuse. Those schools that simply want more students can easily manipulate this provision to claim students have successfully completed some course that is available to complete some program.

In short, the current ability-to-benefit process needs overhaul. Tests should be related to the skills that are needed to succeed in the particular program in which the student is enrolling. Tests should be administered at a location away from the school, by persons not recruited by the school, who have sufficient resources to guard tests and answer sheets from being compromised. If all students are required to be tested, unless they graduated from a public high school, the problem with bogus high school diplomas can be reduced, if not eliminated. Testing of all students, even if they have a public high school diploma, would help prevent students enrolling in programs for which they do not have the basic skills necessary. And the 6-unit alternative should be allowed in proprietary schools only after adequate study in proprietary schools to show it is comparable to testing.

11. EXPAND BASES FOR LOAN DISCHARGE AND REQUIRE REIMBURSEMENT FROM SCHOOL OR LENDER OR ALLOW STUDENTS TO SEEK REMEDIES DIRECTLY FROM SCHOOL AND LENDER

Students could play a role in program integrity if they had tools to do so. Currently, however, students may only have their student loans canceled (discharged) by the Department of Education in very narrow circumstances, such as the school's false certification of the student's ability to benefit, the school's failure to properly return title IV money, or the school's closure. The student's burden to prove the false certification discharge is very difficult, given that the Department (in some cases) and the school have the needed records, which the student does not have. Additionally, the Department has been very limited in agreeing to cancellation for groups of students, even if there is a judgment finding the false certification applied to an entire group of students, or if the Department has similar claims from students in its files evidencing the alleged false certification by the same school. Additionally, to be effective in stopping bad actors, the Department needs to be aggressive in recovering money from schools that have falsely certified eligibility. Sometimes, of course, the Department's failure to collect is because the school has closed, without funds to repay the loan.

The other traditional remedy for fraud and abuse, a civil action, is not readily available. It is not allowed under current Federal law. Employees who have witnessed false claims for Federal money by the school may sue and recover a share of the money paid in the judgment. Students, however, have no right to sue under the Higher Education Act. They may be able to assert claims under State law. But even there, they are often thwarted because the school requires arbitration in which the students' ability to discover needed facts is limited, rather than allowing a lawsuit.

In addition to the limits on these means of redress by students, claims students do pursue successfully are generally not publicly known. Arbitration proceedings are generally private, not public, like courts. Schools often require students' confidentiality to settle a claim and often also prohibit the student from discussing their grievance with others. Sometimes such confidentiality provisions seem to prevent the student even from contacting government agencies about the issue. Typically, evidence of wrongdoing in private arbitrations or actions that settle is hidden away, not available to the Department, accrediting agencies or law enforcement agencies.

These limits on redress and on public information about settlements of disputes both artificially depress Congress' and the public's awareness of problems, and prevent students from playing a larger role in program integrity. These limitations should be re-examined to increase the part students play in program integrity. In particular, notice of settlements should be provided to the Department and law enforcement agencies, and evidence developed that points to violations of the Higher Education Act should be required to be made available to the Department and law enforcement agencies.

12. CONSIDER ESTABLISHING TUITION RECOVERY FUND

One remedy that has been used in States, including in California, is the establishment of a tuition recovery fund, funded by fees on schools, based on numbers of students or amount of tuition. Students can collect from such a fund if they obtain a judgment against a school which they cannot collect, or if they were enrolled in programs which the school stopped offering before the student could complete it or if the school itself closed before the student could complete the program.

13. REQUIRE A HIGHER RATIO OF CURRENT ASSETS TO LIABILITIES

One recurring problem is when a school takes in tuition fees in the form of Federal aid, then closes before students can complete their programs. Because the proprietary schools' educational quality often does not measure up to non-profit or public schools, the credits the students have already received are not transferable. Sometimes so-called "teach-outs" are offered at another school, but often they are inadequate or require additional expenditures to complete the program the student has already paid for. Currently, only a 1 to 1 ratio of current assets to liabilities is required under Federal law. A 1 to 1 ratio is, in essence, a penny away from bankruptcy. The ratio is too low. In other businesses, ratios of 2 to 1 are considered appropriate. In California schools had to have at least a 1.25 to 1 ratio (excluding such intangible assets as good will). The requirement, if enforced, could reduce the number of such closures while still allowing stable schools to flourish.

14. DIRECT MORE FEDERAL FUNDS TO COMMUNITY COLLEGES

I believe there are sound grounds to direct funds to public community colleges which perform some functions similar to proprietary schools, but at a much lower cost to students and the government. Proprietary schools tend to concentrate their recruitment efforts in low-income, urban areas, which may skew the share of Federal student aid flowing to these areas. The increased Federal student aid flowing to those areas because of poor schools, however, does not provide a net benefit to those urban areas. Meanwhile, it may mean less Federal money is available to fund post-secondary education in less populated regions of the country. In contrast, State community college systems reach throughout the country. In many cases, State community college systems have the flexibility in schedules and in developing new programs that proprietary schools tout. Students who go to community colleges, however, borrow much less, wind up with less debt service after they finish, and, if they want to continue their education, generally can transfer credits to other public schools in the State. I think we need to seriously look at whether funds would be allocated more equitably, and whether we would be better able to serve the population if more funds were directed to community colleges, rather than continuing the massive increases in the dollar amount and proportion of Federal funds spent supporting proprietary schools.

CONCLUSION

I have tried to list some of the most salient improvements I believe are needed, based on my experience as a prosecutor. Others with expertise in different aspects of the student financial aid programs may suggest other valuable provisions, so I don't contend the list is necessarily comprehensive. Also, to the extent some changes are made, others may be less (or more) necessary. As a former prosecutor, I find it very frustrating that the main way to address the fraud, abuse and waste currently seems to be by expensive, resource-intensive, time-consuming litigation, including prosecutions. I recognize that implementation of these suggestions would require careful drafting. I am quite willing to cooperate with you and the other members of the committee in drafting provisions so that the incentives can be turned around to operate to reduce the waste in the use of Federal financial aid in the proprietary school sector. Please feel free to contact me about this letter or any other questions you may have.

Sincerely,

MARGARET REITER.

RESPONSE TO QUESTIONS OF SENATOR ENZI, SENATOR BROWN, SENATOR CASEY, SENATOR HAGAN, AND SENATOR COBURN BY MARGARET REITER

QUESTIONS OF SENATOR ENZI

Question 1. Congress enacted a number of changes in the Higher Education Opportunity Act to address many of these problems. What additional changes would you suggest to address problems like the ones you have detailed in your testimony?

Answer 1. In the letter I sent to you on July 13, 2010, I responded to the question you asked at the hearing about what could be done to eliminate the bad actors among post-secondary proprietary schools, while ensuring the good actors can fulfill their role. I believe the detailed answers in that letter address this similar question. A copy is attached for your reference.

Question 2. We have heard a lot of individual instances of wrong doing within the for-profit sector. We are all in agreement that the behavior each of the witnesses has described is wrong and must be dealt with swiftly in order to protect students. However, before Congress or the Department acts, it is important that we do so with a full understanding of what is going on within the sector. Your experience is primarily in California. Do you have evidence of widespread abuses within the sector? Please explain that evidence?

Answer 2. As you know, I was a prosecutor in California, so the cases in which I was directly involved are limited to California. I believe a number of other types of information, however, point to the abuses being nationally widespread within the sector.

First, the kinds of perverse incentives I pointed out, that allow and encourage the abuses, are not unique to California, but rather, are systemic in Federal student aid programs. For example, there is no nationwide standard schools must meet to show they do prepare students for gainful employment; revenues are based on starts, not finishes; and the cohort default rate limits can easily be manipulated.

Second many proprietary schools are nationally accredited. The national accrediting associations are active throughout the country. As I pointed out they are ineffectual at stopping the type of abuses I described (discussed in my prior letter to you).

Third, the high and rising default rates of proprietary schools cannot be entirely explained just by the types of students they recruit. The proprietary schools' own lobbying arm's study showed that even accounting for those differences, proprietary schools' default rates are double those at non-profit and public schools. Such high default rates are an indicator that students are not able to get jobs adequate to pay off their student loans.

Fourth, the activities I described were those of a large publicly traded company, not a local California company. The school certainly has never indicated that it operated in a worse way in California than elsewhere. I have seen no evidence to suggest that companies operate in a vastly different way in California than elsewhere.

Fifth, I am aware of numerous and increasing public reports of abuses across the Nation, but even those reports are artificially depressed. The traditional remedy for fraud and abuse, a civil action, is not readily available to students. It is not allowed under current Federal law. Employees who have witnessed false claims for Federal money by the school may sue and recover a share of the money paid in the judgment. Students, however, have no right to sue under the Higher Education Act.

Students may be able to assert claims under State law, but few attorneys have the expertise and the financial wherewithal to bring such private suits, which ordinarily would need to be done on a contingency basis. Those claims students do pursue successfully are generally not publicly known. Schools often require arbitration and prohibit access to court adjudication. Arbitration proceedings are generally private, not public, like court proceedings. Even court proceedings do not necessarily provide much public information. Schools often require students' confidentiality to settle a claim and often also prohibit the student from discussing their grievance with others. Sometimes such confidentiality provisions seem to prevent the student even from contacting government agencies about the issue. Generally, cases against schools do not reach judgment, or if they do, the judgment is likely to be mooted out by settlement during an appeal. Typically, evidence of wrongdoing in private arbitrations or actions that settle is hidden away, not available to the Department, accrediting agencies or law enforcement agencies.

These limits on means of re-dress and on public information about settlements of disputes artificially depress the amount of public disclosure of abuses in this sector.

Nevertheless, I am aware of a growing number of actions by the Department and private litigants, some of which have already resulted in major settlements against some of the largest, most prominent publicly traded schools in the industry. I have not prepared a complete list of these actions, nor have I seen a comprehensive list elsewhere, but I have seen partial lists others have prepared. See, e.g., *http://www.nacacnet.org/LegislativeAction/LegislativeNews/Documents/HEAFraudAlert051110.pdf*, and *http://www.studentloanborrowerassistance.org/blogs/wp-content/www.studentloanborrowerassistance.org/uploads/File/policy__briefs/FTCguides1009.pdf*.

Question 3. To your knowledge, has the Department of Education initiated, or completed a broad based examination of the for-profit sector to determine if there is widespread abuse throughout the sector?

Answer 3. Generally, the types of investigations I am aware of that the Department has undertaken seem to relate to specific schools at which wrongdoing has been brought to its attention, rather than a broad-based investigation of the entire sector. (My information is limited to publicly available information.) As I understand the Inspector General's testimony, like many investigative agencies, investigations at the Department are often triggered by complaints they receive. Consequently, the fact that 70 percent of their investigations involve proprietary schools, although only about 37 percent of the eligible schools are proprietary schools (78 Fed. Reg. 34863 [June 18, 2010]), and proprietary schools have less than 10 percent of the students, suggests that the problems are more widespread in the proprietary school sector, as has been the case historically. Other more broadly-based types of investigations of the Department with which I am familiar are those done by the Inspector General that focus on an issue, then look at a variety of schools or accrediting agencies related to that issue, e.g., cohort default rates or institutional eligibility process.

Question 4. Many of the traditional institutions of higher education have told us that they do not have the capacity to handle a higher volume of students. What other options are available to students who are now currently attending for-profit institutions of higher education?

Answer 4. I am not quite sure I understand the assumption or reason underlying the question, and the answer depends on that assumption or reason. So I will offer several thoughts, which may be relevant to the intent of your question.

If your question is directed to those students currently attending a for-profit school, who wish to transfer or to obtain a higher certificate or degree: Many students currently attending for-profit schools who wish to change schools have limited options, for a number of reasons, apart from whatever capacity limits there may be at public or non-profit schools. Constraints include the inability to transfer credits that are substandard, lack of basic skills needed to pass entrance exams at other schools, already high debt burdens which may make transfer attempts prohibitively expensive, and inability to find work in the field studied so students cannot work to support themselves through higher level studies. While I am familiar with public reports in which students offer these descriptions of problems enrolling at other schools, I am not familiar with any students explaining that they chose the for-profit school because of lack of availability at a non-profit or public institution, or that lack of capacity kept them from transferring to another school when they left a for-profit school. Whatever capacity limits there may be do not seem to have a major impact in this context.

If your question assumes that changing regulations or laws to reduce abuses, fraud, and unsuccessful programs among for-profit schools will result in massive numbers of students seeking education elsewhere: Two points are salient.

First, based on my experience, changes over the years in requirements have sometimes eliminated numerous problem schools, but there has not been any problem with lack of capacity for students elsewhere. For example, in the few years in the early 1990s when California had a strong, independent oversight agency, it closed more than 150 schools. At the same time, several schools the Attorney General sued for fraud also closed, including at least one large, publicly traded school. I am aware of no reports of students being unable to get into college elsewhere in California. In part, this may be because some percentage of students those fraudulent schools would have otherwise induced to enroll did not have the ability to pass entrance exams at legitimate schools. (The GAO recently reported how some for-profit schools manipulated or falsified "ability to benefit" tests, which are required if a student does not have a high school diploma. Also, I am aware that some for-profit schools either steer prospective students to companies from which they could buy a high school diploma, or rely on such diplomas. This is known from investigations in which I was involved and from investigations about which I have read. At the negotiated rulemaking sessions, the representative of for-profit schools provided lists of bogus high schools her school had identified.) In part, other for-profit schools may have expanded to reach more students. In part, public and non-profit schools were available to students.

Second, concerns that massive numbers of students would be denied higher education if tighter rules were imposed on for-profits are overstated. As I explain in my prior letter, the various proposed changes would affect bad apples; good schools that do really prepare their students for gainful employment would continue to do well. The for-profit schools' lobbying arm's own study suggested that more than 80 percent of programs surveyed would pass the Department's draft 8 percent debt to salary initial flag. And additional schools would likely meet one of the draft alternative tests for gainful employment even if they did not meet the 8 percent flag. For-profit schools have also shown themselves time and again to be very adaptable to changed conditions. (Of course, some studies have indicated that that adaptability is sometimes manipulation of loopholes, allowing bad schools to continue to operate badly.) With improved regulation, schools may not be able to keep making extremely high profits because they would have to put more money into instruction, and they would probably need to do a better job of enrolling students who are likely to graduate and succeed. But these regulations will not disrupt the basic for-profit model or impact schools that do a good job educating students.

Having said this, however, I agree that we need to focus on making sure that good, reasonably priced alternatives are available. As I indicated in my prior letter, one of the possibilities that must be considered is more direct use of funds to support public community colleges, and I would add, State colleges and universities. I grew up on a farm and worked to support myself, with help from my parents through college, and then on my own, with only $15,000 in student loans through law school. Even as late as the 1980s, the schools were affordable enough that I could do that. Now our great American public higher education system suffers from too little support. Personally, I think that the experiment of shifting an ever-increasing portion of the higher education dollar to proprietary schools has shown itself time and again to be extremely costly, not just in money, but in the failure to prepare Americans in highly skilled jobs and in the damage to former students' working lives. These failures will drag down the economy as students without jobs and high student loan debts cannot support the consumer-based economy this Nation relies on. In this competitive world, we cannot continue to afford to waste money that we need for training our future generations. We have two ways to address the problem—set requirements to stop the abuses where they are most prevalent, in the for-profit sector, and insure stronger financial resources for the public State systems that generally are not fraught with fraud.

QUESTIONS OF SENATOR BROWN

Question 1. What are the types of legislative measures that you would recommend to improve accountability to students and taxpayers in the current system?

Answer 1. I have compiled a list of suggestions, some of which could be accomplished by regulations or by legislation, and others of which would require legislation. In general, most of the suggestions are remedies that have been used by California or other States or are revisions to laws that were enacted after the Nunn hearings, but have been weakened over time. Some remedies have been widely discussed, and I will only mention them briefly as you are undoubtedly already familiar with them. First, I list the suggestions. More detail about each suggestion then follows:

1. Define and Enforce the Longstanding Requirement that Proprietary Programs (and certain other programs) Prepare Students for Gainful Employment.
2. Strictly Prohibit Quotas and Incentive Compensation for Recruiting and Financial Aid.
3. Publish and Base Continued Eligibility on Life-time Cohort Default Rates.
4. Require Real Standards for State Authorization Agencies.
5. Reform Accrediting Agency Role and Requirements.
6. Revise 90/10 Requirement.
7. Change Incentives for Private Lenders and Schools by Ensuring the Existing FTC Holder Rule Is Enforced Against Lenders.
8. Study and Establish Appropriate Standards for Distance Education.
9. Require Cancellation Periods and Pro-rata Refunds, and Prohibit Contractual Obligation or Payment Beyond One Term or 4 Months.
10. Require Ability to Benefit Testing, Either for All Students, or at Least for All Students Who Did Not Graduate From a Public High School; Eliminate 6 Unit Alternative Measure for Entrance Until Sufficient Study at Proprietary Schools Has Occurred.

11. Expand Bases for Loan Discharge and Require Reimbursement from School or Lender or Allow Students to Seek Remedies Directly from School and Lender.
12. Consider Establishing Tuition Recovery Fund.
13. Require a Higher Ratio of Current Assets to Liabilities.
14. Direct More Federal Funds to Community Colleges.

1. DEFINE AND ENFORCE THE LONGSTANDING REQUIREMENT THAT PROPRIETARY PROGRAMS (AND CERTAIN OTHER PROGRAMS) PREPARE STUDENTS FOR GAINFUL EMPLOYMENT

Congress apparently first noted the widespread exploitation of students by proprietary schools after enactment of the GI bill after World War II. The House Select Committee to Investigate Educational, Training, and Loan Guaranty Programs under GI bill, 2/14/1952 describing the abuses in the GI bill from 1944 to 1950 in connection with recommending safeguards for veterans of the Korean War noted, inter alia:

> "Exploitation by private schools has been widespread."
>
> "There was a rapid uncontrolled expansion of private profit schools. . . ."
>
> "Many schools have offered courses in fields where little or no employment opportunity existed."
>
> "Training programs have been approved for unskilled or semi-skilled occupations where little or no training was required, resulting in needless expenditure of funds and waste. . . ."

With reason, when Congress later added proprietary schools to the Higher Education Act, it specified that only schools that prepared students for gainful employment were eligible. However, the Department of Education has never defined, much less made much of any attempt to enforce this requirement. In the negotiated rulemaking on program integrity the Department initiated in 2009, the Department proposed a definition that is a modest step toward enforcement of this requirement. The proposal, which it has yet to officially propose, would set a flag to identify programs for which the students' median loan debt would be more than 8 percent of the projected salaries (at the 25th decile of salaries determined by the Bureau of Labor Statistics for the occupations for which the training is to prepare students). Programs that could not meet that standard would still be eligible if the school could demonstrate that the median debt load is less than 8 percent of the actual salaries graduates of those programs earn, or if 90 percent of the graduates of the program did not default (with "default" defined more accurately than under the current cohort default rate standards).

Given that the 8 percent standard is usually used by lenders to determine the amount of all non-housing debt a borrower should reasonably carry, and that many students at proprietary schools are older and already have other debts such as auto loans and credit card debts, the 8 percent standard may be too high, especially for those whose salaries would be less than 150 percent of the poverty level. Nevertheless, it is a modest, reasonable first step. I believe the debt load of those who enroll, but do not complete also needs to be considered, so that there is no temptation for the bad actors to discourage those with the highest debt loads from completing the course, in order to lower the median debt load of students in a program.

The Department's proposal, however, deals only with the "gainful" part of the phrase, not with the "employment" part. If a school does a poor job of training students, even if the program met the 8 percent or related criteria mentioned above, it might still have a minority of graduates who could actually obtain employment. Consequently, a proprietary school programs should also have to meet certain levels of employment. In California, for example, for 19 years, proprietary schools were required to have at least 70 percent of the graduates from a program obtain employment within 6 months, in a position that lasted at least 60 days, for at least 32 hours a week. (Part time employment could also count if the student had specified in advance of the program and at the end that the student only wanted part-time employment.) As was obvious from my testimony, there needs to be some way to verify that claimed employment levels are true. One suggestion for accuracy in employment statistics is to require use of State unemployment insurance data, which some States already do for community colleges.

A current provision under the Higher Education Act, which was enacted back when most programs were much shorter, applies only to short courses. The Department has now proposed to apply it more broadly, so far, as a reporting device only. Based on my experience, to be used more broadly, the existing provision needs to be strengthened and improved to prevent manipulation. For example, under the current provision, while accurate reporting would be helpful, the existing provision would not be useful. The documentation of employment allowed would not demonstrate that the employment really meets the standard. The current provision also relies on an "attestation engagement" by an accountant to verify the reported percentages, but the lack of specificity as to the sampling needed, and other details I believe, leaves this provision open to false or inflated reports.

And, as noted above, completion rates also need to be tracked and verified, and a standard set to insure schools are not manipulating the data by discouraging completion by students they consider least likely to be able to get a job. In California, for example, after certain exceptions—death, military service, those who canceled within the 100 percent full refund cancellation period, etc.—authorized programs had to show 60 percent of those enrolled completed the program.

I view such standards as critical to separating out the good from the bad actors. Good schools would continually evaluate their programs, eliminating or revising those that have high debt levels in comparison to salaries available or whose graduates are unable to find work in the field in which they trained. The proprietary schools' lobbying arm, CCA, has represented that more than 80 percent of the programs it surveyed would meet the 8 percent flag, and likely additional programs would meet one of the two alternatives, although CCA did not run the numbers for the alternatives. It is unclear how many programs would meet a 70 percent employment requirement, but most national accrediting agencies already claim to have that high, or a higher standard. In California, until 2008, that was the standard schools were required to meet. The requirement did not seem to have slowed the development of proprietary schools in California (although the State agency charged with enforcement apparently did little to enforce the law).

Schools should also be required to report on their Web sites, if they have one, their statistics for each program offered, as well as to provide a fact sheet to every prospective student showing the information for the program in which the prospective student has expressed an interest. Currently, there is no competition among schools based on such quality factors because those factors are not transparent. Making them transparent, if they are verified/monitored for accuracy, would provide some possibility of competition arising based on these quality criteria. Such real competition would help the good schools.

While the Department could promulgate these changes, it has yet to do so. Congressional action might be needed. Of course there might need to be provisions related to an employment requirement to address extraordinary circumstances, such as limited employment available in a particular region after a major disruption, e.g., after hurricane Katrina, or to address the time lag for getting the results from licensing exams.

2. STRICTLY PROHIBIT QUOTAS AND INCENTIVE COMPENSATION FOR RECRUITING AND FINANCIAL AID

The recent Department of Education proposed regulation on incentive compensation goes a long way to restoring the full intent of the statute prohibiting incentive compensation. I am concerned, however, that a few possible loopholes may still exist and will be working with others to comment on the proposed rule. In addition, I also recommend a statutory change to make very clear that the use of quotas in connection with compensation for such staff is prohibited. From the information I have seen, it appears schools may be trying to get around the prohibition on incentive compensation by setting quotas and punishing in some way or firing those who do not reach the quota. While this may well be covered under the current statute, additional clarity would be advisable.

The payment of incentive compensation or the use of quotas for those involved in or supervisors over admissions or financial aid tasks is particularly pernicious. Prospective students are likely to trust the "admissions advisor" or "financial aid advisor" or school director as a person there to assist them. Prospective students don't readily realize they are dealing with commissioned sales persons, as they would when, e.g., buying a car.

Good schools can compete on the basis of quality, and need not compete on incentives. The natural result of incentives/quotas is to encourage some of the types of abuse noted at the hearing, including misrepresentations, enrolling students ill-suited to a particular training program, or providing training that does not qualify the graduates for employment.

3. PUBLISH AND BASE CONTINUED ELIGIBILITY ON LIFE-TIME COHORT DEFAULT RATES

Proprietary schools first came fully into the Higher Education Act financial aid programs in 1972. By the mid-80s, stories of fraud and abuse and high default rates were accumulating. One of the provisions enacted after the 1992 hearings by the Senate Permanent Subcommittee on Investigations was to eliminate from eligibility schools with high default rates. Initially, that change had an impact, but the rule has been watered down over the years, and schools have learned how to manipulate the data to prevent defaults from showing up within the time (2, soon to be 3 years) in which defaults are measured. Both the Inspector General and the GAO have pointed out that the short-time cohort default rate is a misleading indicator. It is a mere snapshot in time that does not give a full picture of default trends.[1]

There are problems not only with the time period, but also with the cohort rate calculation method. In addition, the default measure does not include borrowers that are current, but struggling with overly burdensome debt or borrowers that are delinquent, but not yet in default (i.e., less than 9 months behind in their payments). These problems are expected to grow as interest rates rise along with borrowing levels.

Unless cohort default rates are tracked for life, schools will continue to be able to manipulate this limitation. Additionally, the default rate cut-off applied to each interval of time should be a reasonable measure of defaults in credit markets that are not skewed by an influx of Federal loans. For example, current default limits over 2 years of 25 percent (soon to be 30 percent over 3 years) are extraordinarily high compared to normal market-based credit default rates. Congress needs to act to make these changes.

4. REQUIRE REAL STANDARDS FOR STATE AUTHORIZATION AGENCIES

Traditionally, the Higher Education Act has depended on the triad of oversight, requiring a school to be accredited by a recognized accrediting agency, to be "legally authorized within [the State in which it operates] to provide a program of education beyond secondary education," and to submit to the provisions of a participation agreement with the Department of Education. Currently, however, proprietary schools and their allies, the accrediting agencies, have successfully lobbied many States to rely on accreditation for most, if not all of their State oversight responsibilities. The Department of Education recently proposed a regulation that would require States to undertake at least some of the responsibilities contemplated by law, but apparently under pressure from some schools and accrediting agencies, failed to fully address the statutory requirements for State oversight. Current law requires the State agency to notify the Department of Education promptly of any fraud or substantial violation of the Higher Education Act, but the proposed rule does not require the State to have any mechanism by which it would be likely to notice such conduct.

The Department has never had sufficient resources to adequately police the fraud and abuse in the proprietary sector. In my experience, local or State agencies are in a much better position to learn about problems early. As discussed below, accrediting agencies are not designed to fulfill this role. The Department's proposed regulation needs to be strengthened or the law needs to be revised to make clear that schools are not eligible if the State agency in the State in which the school operates relies on accrediting agencies for its essential functions. State agencies must themselves approve schools, monitor their compliance with provisions of the Higher Education Act or with State provisions that are as strong, or stronger than the Higher Education Act, and act to revoke authorization of schools that are not in compliance.

5. REFORM ACCREDITING AGENCY ROLE AND REQUIREMENTS

As was pointed out at the hearing, the advisory commission that recommends to the Department of Education about accrediting agency recognition is heavily loaded with representatives or employees of schools that live or die by accreditation; there is an incestuous relationship between accrediting agency boards and the schools they accredit; and schools are using purchase of small, previously accredited schools to gain accreditation, then expanding the schools beyond all recognition of the school and programs originally accredited. As I pointed out, virtually every school I have prosecuted was accredited, but accreditation did not address the poor outcomes, nor stop abuse and fraud. Typically, among other limitations, accrediting agencies have very small staffs, rely on volunteer staff from members to evaluate other members, do not have trained investigators or prosecutors involved in designing their oversight activities, do not set specific enough "standards" so that one can tell if they

[1] See, e.g., U.S. Department of Education, Office of Inspector General, "Final Audit Report: Audit to Determine if Cohort Default Rates Provide Sufficient Information on Defaults in the Title IV Loan Program", ED–OIG/A03–C0017 (December 2003); General Accounting Office, "Student Loans: Default Rates Need to be Computed More Appropriately", GAO/HEHS–99–135 (July 1999).

have been violated, have non-transparent procedures, and keep information about problems gathered confidential.

Congress needs to address these deficiencies. At a minimum, the advisory commission needs to be revised so that the majority represents consumer and student interests, not the interests of schools that depend on accreditation. To the extent the financial aid programs continue to rely on accrediting agencies, minimum uniform criteria need to be established, particularly outcome criteria which all recognized accrediting agencies will monitor for compliance. Criteria, such as how much work is required for a unit of credit should not be based on accrediting agency determinations, but should be required to be set by the Department, and monitored by accrediting agencies.

6. REVISE 90/10 REQUIREMENT

One of the requirements that came out of the 1992 hearings on proprietary school fraud and abuse was the requirement that at least 15 percent of a school's revenues should come from other than title IV funds. This provision was derived from, but did not track the requirement for Veterans' programs. The rule for Veterans' programs was that at least 15 percent of the students must not use the GI benefit to pay for their schooling. This requirement was established because after the first GI bill, proprietary schools developed to capture the veterans benefits proliferated, and fraud and abuse were rampant (see above). Proprietary schools later successfully reduced the percentage not to be from title IV financial funds to 10 percent. Nevertheless, proprietary schools continue to operate near the 90 percent title IV subsidized margin. After lobbying Congress to be able to count all institutional loans toward their 10 percent in the years in which the loans are made (rather than when they are repaid), some proprietary schools began to offer, or increase their offering of school financing. Some schools admit they expect to collect less than 50 percent of the amounts owed on their loans for students, suggesting these "loans" are driven, in part, by the need to come up with enough non-Federal funding to meet the watered down 10 percent. Apparenty and perversely, some proprietary schools are increasing their fees above the amount available in title IV grants and loans as a strategy for meeting the 10 percent that cannot be from title IV funds.

Even if one looks at just independent students taking 4-year programs at public, nonprofit, and for-profit schools, the percentage of borrowers varies dramatically. In the publics and non-profits, 24 percent to 31 percent of students have no Federal loans, but at the for-profits, only 4 percent do not have Federal loans. The concept of the Veterans' 85/15 limit is that in the marketplace, a good school could attract at least 15 percent of its students without reliance on the Veteran benefit. The 90/10 limit under title IV needs to be restructured. I would recommend that it be changed to be 85/15 and to apply not to revenues, but to the numbers of students who receive any Federal student financial aid, whether grants or loans under title IV, the VA, or similar programs. Proprietary schools will likely argue that because they attract a lower income student, such a restriction would not be possible for them. One has to wonder, however, if they are providing a good education, why they are not also attracting some higher income students. Some higher income students do want to become radiologists, vocational nurses, computer technicians or obtain Bachelors' or advanced degrees in career-focused fields. This change would incentivize proprietary schools not to raise tuition, but to lower it, as they would have to compete for students in the market generally, rather than just trying to maximize the financial aid the school can collect by selling dreams of a career to poor people.

This change would have to be accompanied by a strict requirement that the school must first make known to the student all financial aid the student can qualify for, before offering information about private, non-Federal loans so that schools would not just push students into even higher interest, less favorable private loans. It would also have to be accompanied by some changes in private loans, as discussed below.

7. CHANGE INCENTIVES FOR PRIVATE LENDERS AND SCHOOLS BY ENSURING THE EXISTING FTC HOLDER RULE IS ENFORCED AGAINST LENDERS

Under the Federal Trade Commission's rule, commonly referred to as the "Holder Rule," sellers of consumer goods and services are required to include a provision in credit contracts they assign to a lender, or in loans if they refer the consumer to the lender or arrange the loan, that makes the creditor subject to the same claims and defenses the purchaser could assert against the seller. This standard rule prevents a seller from selling a defective product, but having the payments due to another party who claims the right to collect, even though the product is defective. Unfortunately, some courts have held that if the seller (in this case, the school) does not see to it that the provision is in the credit document, the creditor is not bound by the rule.

The FTC does not regulate lenders, so it cannot require them to include the provision, and the agencies that do regulate lenders have failed to promulgate a parallel rule. This means that lenders need have little concern about whether the school is good or not. This inconsistency needs to be addressed so that lenders will have incentive to provide credit only for students at good schools, or to require schools to put up a deposit to cover potential future claims or defenses to payment. Congress should address this by requiring the notice in contracts for student loans and by specifying that the lender is liable, whether or not the notice is included, if the notice should have been included by law.

In connection with the "holder" issue, schools should be required to certify all private student loans and that the student has exhausted all means of Federal financing, before a private loan may be disbursed. This would also insure that when schools are determining their students' loan debt, they are including any private loans the student may have.

8. STUDY AND ESTABLISH APPROPRIATE STANDARDS FOR DISTANCE EDUCATION

This is probably the fastest growing segment of proprietary schools and the area most susceptible to abuse. Before 2006, eligible schools were limited to providing distance education, including correspondence courses, for no more than 50 percent of their students and no more than 50 percent of their courses. Despite caution from the GAO and IG[2] that removing this limitation without better controls would lead to increased fraud and abuse, the limit was lifted as to telecommunications courses (those offered by electronic means), but not as to correspondence courses. The only limit on telecommunications courses is that they must provide regular and substantive interaction between the student and teacher, but that interaction need not be synchronous. The only clarification of those terms States that the interaction must be at regular intervals and not be trivial.

This provision leaves the student financial aid programs wide open to fraud and abuse. Among other issues, for-profit schools may purchase a small, reputable school, then turn the school into a massive online college, with virtually no oversight. A further concern must be that schools that may have been providing good, needed hands-on programs at an on-site facility, will be tempted to reduce costs by going to all, or almost all on-line programs. Although telecommunications programs are required to be accredited, the GAO has found the same lack of accrediting agency standards here as noted above.

In her testimony, the Inspector General also noted her concern about the lack of measures to insure Federal dollars are not being spent for little or no benefit because of the lack of oversight of distance education programs. Congress should reinstate the 50 percent limitation on on-line programs until the means to prevent abuse can be studied and implemented. There needs to be a study to establish what requirements and monitoring needs to be implemented to prevent the massive potential for problems in this burgeoning area.

9. REQUIRE CANCELLATION PERIODS AND PRO-RATA REFUNDS, AND PROHIBIT CONTRACTUAL OBLIGATION OR PAYMENT BEYOND ONE TERM OR FOUR MONTHS

Each of these suggestions have in common that they offer a measure of self-help to students who may find themselves in one of the "bad actor" schools, and that they have been used in one or more States, to curb abuses, but without preventing good schools from flourishing.

In California, the State law for 19 years required proprietary schools to provide a full refund (except for a modest registration fee) to any student who canceled the program within the first 5 class days. That way, there was a chance the student would discover if the equipment or facilities were lacking, or if teachers were untrained or had no practical experience before the student had spent thousands of dollars on a worthless education. Other States prevent the school from keeping even a registration fee if the student cancels on or before the first day of class. While bad actor schools become adept at giving a good first impression, some students may discover the problems in this initial period.

[2] General Accounting Office, "Distance Education: Improved Data on Program Costs and Guidelines on Quality Assessments Needed to Inform Federal Policy," GAO–04–279 (February 2004); see also 2009 testimony at *http://edlabor.house.gov/documents/111/pdf/testimony/20091014MaryMitchelsonTestimony.pdf.*

For 19 years, California required proprietary schools to provide a full pro-rata refund throughout the program. That requirement reduced the churn from schools constantly admitting new students and ignoring students' needs once they passed an arbitrary percentage (which varies by school) of the course, after which students were no longer entitled to any refund. Oregon has used a similar concept, prohibiting schools from collecting from students or obligating students for more than one term or four months. Again, students under this system might lose some money on a bad school, but when they realize that things are not as represented, they are free to leave, without being obligated for many months more. Without such a policy, students report that the school responds to their complaints by saying, the student already owes all the money, so there is no point to quitting out of dissatisfaction with the program.

10. REQUIRE ABILITY TO BENEFIT TESTING, EITHER FOR ALL STUDENTS, OR AT LEAST FOR ALL STUDENTS WHO DID NOT GRADUATE FROM A PUBLIC HIGH SCHOOL; ELIMINATE 6 UNIT ALTERNATIVE MEASURE FOR ENTRANCE UNTIL SUFFICIENT STUDY AT PROPRIETARY SCHOOLS HAS OCCURRED

To be admitted, students are supposed to have a high school diploma, or pass a test demonstrating their ability to benefit from the program being offered. The Inspector General has testified that $12 billion in financial aid was granted in fiscal year 2009 based on results of Ability-to-Benefit (ATB) tests.[3] Needless to say, this has been a well-known area where fraud occurs. The Department has recently proposed much-needed changes, but I believe those are inadequate to clean up this problem area.

There has been no definition of "high school diploma," so that proprietary schools could turn a blind eye to bogus diplomas which could be obtained for a fee. The Department has proposed to require schools to have procedures to deal with suspect diplomas, but the proposed rule still leaves a lot of room for turning a blind eye. Additionally, a high school diploma may not be adequate to determine if a prospective student has the basic skills needed for the coursework for particular careers.

Current rules require an ability-to-benefit (ATB) test to be administered to non-high school graduates by an independent tester. This requirement has had limited impact, however, as testers are generally selected by the school, give the tests at the school, and rely on the school to maintain the tests and answer sheets. Apparently, the so-called "independent" testers do not run a business in which they have the facilities to guard the tests themselves. Recently, the GAO found in undercover operations that tests were not administered properly, but instead were compromised to ensure the student could be admitted. It is unclear whether the ATB test is even required for students who did graduate from high school, but in a country in which their education was in another language. Sometimes such students are told courses will be offered in their language, but ultimately they are put in English-only classes they cannot hope to comprehend.

Under the law, the Department is charged with determining appropriate test scores to allow eligibility. This is also problematic because the Department has not interpreted the law to require ability to benefit from the specific program for which a student is enrolling, but rather, to be simply the equivalent of having a high school diploma. Obviously, the beginning skills for, say, security guard, may be different from those required for a sonographer or radiologist or cosmetologist.

In addition, recently, on the basis of a study carried out in community colleges, an alternative measure—the successful completion of 6 units—is now allowed to determine whether a student may be eligible for Federal financial aid. This provision has been enacted, but there are virtually no regulations to prevent abuse. Those schools that simply want more students can easily manipulate this provision to claim students have successfully completed some course that is available to complete some program.

In short, the current ability-to-benefit process needs overhaul. Tests should be related to the skills that are needed to succeed in the particular program in which the student is enrolling. Tests should be administered at a location away from the school, by persons not recruited by the school, who have sufficient resources to guard tests and answer sheets from being compromised. If all students are required to be tested, unless they graduated from a public high school, the problem with bogus high school diplomas can be reduced, if not eliminated. Testing of all students, even if they have a public high school diploma, would help prevent students

[3] *http://studentlendinganalytics.typepad.com/student_lending_analytics/2009/10/highlights-from-house-hearing-on-oversight-of-atb-testing-and-diploma-mills-11-of-aid-recipients-ent.html*.

enrolling in programs for which they do not have the basic skills necessary. And the 6-unit alternative should be allowed in proprietary schools only after adequate study in proprietary schools to show it is comparable to testing.

11. EXPAND BASES FOR LOAN DISCHARGE AND REQUIRE REIMBURSEMENT FROM SCHOOL OR LENDER OR ALLOW STUDENTS TO SEEK REMEDIES DIRECTLY FROM SCHOOL AND LENDER

Students could play a role in program integrity if they had tools to do so. Currently, however, students may only have their student loans canceled (discharged) by the Department of Education in very narrow circumstances, such as the school's false certification of the student's ability to benefit, the school's failure to properly return title IV money, or the school's closure. The student's burden to prove the false certification discharge is very difficult, given that the Department (in some cases) and the school have the needed records, which the student does not have. Additionally, the Department has been very limited in agreeing to cancellation for groups of students, even if there is a judgment finding the false certification applied to an entire group of students, or if the Department has similar claims from students in its files evidencing the alleged false certification by the same school. Additionally, to be effective in stopping bad actors, the Department needs to be aggressive in recovering money from schools that have falsely certified eligibility. Sometimes, of course, the Department's failure to collect is because the school has closed, without funds to repay the loan.

The other traditional remedy for fraud and abuse, a civil action, is not readily available. It is not allowed under current Federal law. Employees who have witnessed false claims for Federal money by the school may sue and recover a share of the money paid in the judgment. Students, however, have no right to sue under the Higher Education Act. They may be able to assert claims under State law. But even there, they are often thwarted because the school requires arbitration in which the students' ability to discover needed facts is limited, rather than allowing a lawsuit.

In addition to the limits on these means of redress by students, claims students do pursue successfully are generally not publicly known. Arbitration proceedings are generally private, not public, like courts. Schools often require students' confidentiality to settle a claim and often also prohibit the student from discussing their grievance with others. Sometimes such confidentiality provisions seem to prevent the student even from contacting government agencies about the issue. Typically, evidence of wrongdoing in private arbitrations or actions that settle is hidden away, not available to the Department, accrediting agencies or law enforcement agencies.

These limits on redress and on public information about settlements of disputes both artificially depress Congress' and the public's awareness of problems, and prevent students from playing a larger role in program integrity. Congress should examine these limitations to increase the part students play in program integrity. In particular, notice of settlements should be provided to the Department and law enforcement agencies, and evidence developed that points to violations of the Higher Education Act should be required to be made available to the Department and law enforcement agencies.

12. CONSIDER ESTABLISHING TUITION RECOVERY FUND

One remedy that has been used in States, including in California, is the establishment of a tuition recovery fund, funded by fees on schools, based on numbers of students or amount of tuition. Students can collect from such a fund if they obtain a judgment against a school which they cannot collect, if they were enrolled in programs which the school stopped offering before the student could complete, or if the school itself closed before the student could complete the program.

13. REQUIRE A HIGHER RATIO OF CURRENT ASSETS TO LIABILITIES

One recurring problem is when a school takes in tuition fees in the form of Federal aid, then closes before students can complete their programs. Because the proprietary schools' educational quality often does not measure up to non-profit or public schools, the credits the students have already received are not transferable. Indeed, even when proprietary schools have the opportunity to make their credits transfer, they frequently choose not to do so, forcing the student to continue at the proprietary school or have to start over at another school. Sometimes so-called "teach-outs" are offered at another school, but often they are inadequate or require additional expenditures to complete the program the student has already paid for. Currently, only a 1 to 1 ratio of current assets to liabilities is required under Federal law. A 1 to 1 ratio is, in essence, a penny away from bankruptcy. The ratio is too low. In other businesses, ratios of 2 to 1 are considered appropriate. In California schools had to have at least a 1.25 to 1 ratio (excluding such intangible assets as good will). The requirement, if enforced, could reduce the number of such closures while still allowing stable schools to flourish.

14. DIRECT MORE FEDERAL FUNDS TO COMMUNITY COLLEGES

Although this may be outside of your question, it may be a necessary component. I believe there are sound grounds to direct funds to public community colleges which perform some functions similar to proprietary schools, but at a much lower cost to students and the government. State community college systems reach throughout the country. In many cases, State community college systems have the flexibility in schedules and in developing new programs that proprietary schools tout. Students who go to community colleges, however, borrow much less, wind up with less debt service after they finish, and, if they want to continue their education, generally can transfer credits to other public schools in the State. I think we need to seriously look at whether funds would be allocated more equitably, and whether we would be better able to serve the population if more funds were directed to community colleges, rather than continuing the massive increases in the dollar amount and proportion of Federal funds spent supporting proprietary schools.

I have tried to list some of the most salient improvements I believe are needed, based on my experience as a prosecutor. Others with expertise in different aspects of the student financial aid programs may suggest other valuable provisions, so I don't contend the list is necessarily comprehensive. Also, to the extent some changes are made, others may be less (or more) necessary. As a former prosecutor, I find it very frustrating that the main way to address the fraud, abuse and waste currently seems to be by expensive, resource-intensive, time-consuming litigation, including prosecutions. I recognize that implementation of these suggestions would require careful drafting. I am quite willing to cooperate with you and the other members of the committee in drafting provisions so that the incentives can be turned around to operate to reduce the waste in the use of Federal financial aid in the proprietary school sector.

Question 2. We have recently required that cohort default rates be reported on the College Navigator Web site. Do you think that entrance counseling for student loan borrowers should include a disclosure about default rates? Would some students decline to borrow if they knew that one third or even one half of all students who borrow to attend the institution were not able to repay the loans?

Answer 2. I am not very hopeful that disclosures/counseling would make much difference, especially if the disclosures/counseling are provided by the school, or even by some independent organization that contracts with the school. I have seen that the enrollment process can so easily be manipulated to make a school sound like the best thing since sliced bread, despite required disclosures. Schools can and do undermine the impact of required counseling or disclosures by the rest of what they say. I believe preventing schools from operating, or from offering certain courses if they do not meet minimum standards, such as low lifetime default rates and high completion and gainful employment for their graduates, is the better approach. More information could be somewhat useful if it were readily available on the school's Web site and, especially for those who do not contact the school via the Internet, in a uniform disclosure form that had to be provided to prospective students on their first contact with a school, not buried in other materials, e.g., by a short video. Information provided later, just before the student signs enrollment agreements is usually too late in the process to overcome all the statements the school has already made that undermine or contradict the disclosures.

QUESTIONS OF SENATOR CASEY

Question 1. The President has set the goal of the United States leading the world in college graduates by the year 2020. In your opinion, what is the role of for-profit colleges in trying to achieve this goal?

Answer 1. I understand the goal to mean college graduates who are well-trained and able to find skilled work in their profession. We do not have a way to figure out how many proprietary schools are really contributing to this goal and how many are simply using students to milk the system and leave the students with huge debt burdens and little useable or transferable education. We don't know which schools really are sufficiently screening applicants for ability to succeed in the career program they choose, which are preparing their students for gainful employment and which are not, which are succeeding at having students graduate, which are adequately counseling students to match likely debt to likely earnings so they will not be overburdened with loans, or which are succeeding at having their graduates meet or exceed licensing or professional certification exam pass rates. So, I am not certain what role for-profit colleges will be able to play, because we currently have so little information about which for-profit colleges are really preparing students. What I do know is that the kinds of abuses and problems that I have observed are facilitated by the current regulatory system. Until we address the major problems in the system, I do not know how we can determine what role for-profit colleges will be able to play in meeting this goal.

Question 2. What are for-profit schools currently required to report to the Department of Education around graduation rates and placement rates? How are placement rates tracked?

Answer 2. My focus was on placement rates, not graduation rates, and I focused on the requirements of the California law, so there are probably others better qualified than I to discuss graduation rate reporting.

Currently, for the vast majority of programs, there is no requirement for tracking job placement rates, much less reporting them. A provision under the Higher Education Act, which was enacted back when most programs were much shorter, applies only to courses of 300 to 599 clock hours. 20 U.S.C. § 1088(b)(2)(A). Apparently, virtually no programs are subject to this requirement, now, because schools have lengthened their courses to avoid the requirement. The statute requires these programs to have a 70 percent completion rate and a 70 percent job placement rate. 34 CFR 668.8(d)(2) and (e). That means (70 percent x 70 percent = 49 percent) forty-nine percent of those who begin the program and do not cancel with a full refund would have to be placed in a job for which they trained or "a related comparable recognized occupation." The schools are supposed to determine the number of graduates who are employed within 180 days of graduation and stay employed for at least 13 weeks. 34 CFR 668.8(g). Schools are allowed to rely on "[a] written statement from the student's employer," "[s]igned copies of State or Federal income tax forms" or [w]ritten evidence of payments of Social Security taxes" to demonstrate employment. 34 CFR 668.8(g)(2). Schools are also to submit an "attestation" from a certified public accountant as to the placement and completion statistics. 34 CFR 668.23. In response to your third question below, see my comments regarding the deficiencies in this rule.

Question 3. What, if any, statutory or regulatory changes should be made to strengthen the rules governing for-profit colleges? Are the penalties strong enough to hold these institutions accountable?

Answer 3. Answering your second question first: As we relied on penalties under California law, I am not sufficiently familiar with penalties directly under the Higher Education Act to opine. As I discuss in more detail below, one failure of the remedies for violations is that they are not available directly to either students or law enforcement agencies.

I have compiled a list of suggestions, some of which could be accomplished by regulations or by legislation, and others of which would require legislation. In general, most of the suggestions are remedies that have been used by California or other States or are revisions to laws that were enacted after the Nunn hearings, but have been weakened over time. Some remedies have been widely discussed, and I will only mention them briefly as you are undoubtedly already familiar with them. First, I list the suggestions. More detail about each suggestion then follows:

1. Define and Enforce the Longstanding Requirement that Proprietary Programs (and certain other programs) Prepare Students for Gainful Employment.
2. Strictly Prohibit Quotas and Incentive Compensation for Recruiting and Financial Aid.
3. Publish and Base Continued Eligibility on Life-time Cohort Default Rates.
4. Require Real Standards for State Authorization Agencies.
5. Reform Accrediting Agency Role and Requirements.
6. Revise 90/10 Requirement.
7. Change Incentives for Private Lenders and Schools by Ensuring the Existing FTC Holder Rule Is Enforced Against Lenders.
8. Study and Establish Appropriate Standards for Distance Education.
9. Require Cancellation Periods and Pro-rata Refunds, and Prohibit Contractual Obligation or Payment Beyond One Term or 4 Months.
10. Require Ability to Benefit Testing, Either for All Students, or at Least for All Students Who Did Not Graduate From a Public High School; Eliminate 6 Unit Alternative Measure for Entrance Until Sufficient Study at Proprietary Schools Has Occurred.

11. Expand Bases for Loan Discharge and Require Reimbursement from School or Lender or Allow Students to Seek Remedies Directly from School and Lender.
12. Consider Establishing Tuition Recovery Fund.
13. Require a Higher Ratio of Current Assets to Liabilities.
14. Direct More Federal Funds to Community Colleges.

1. DEFINE AND ENFORCE THE LONGSTANDING REQUIREMENT THAT PROPRIETARY PROGRAMS (AND CERTAIN OTHER PROGRAMS) PREPARE STUDENTS FOR GAINFUL EMPLOYMENT

Congress apparently first noted the widespread exploitation of students by proprietary schools after enactment of the GI bill after World War II. The House Select Committee to Investigate Educational, Training, and Loan Guaranty Programs under GI bill, 2/14/1952 describing the abuses in the GI bill from 1944 to 1950 in connection with recommending safeguards for veterans of the Korean War noted, inter alia:

> "Exploitation by private schools has been widespread."
>
> "There was a rapid uncontrolled expansion of private profit schools. . . ."
>
> "Many schools have offered courses in fields where little or no employment opportunity existed."
>
> "Training programs have been approved for unskilled or semi-skilled occupations where little or no training was required, resulting in needless expenditure of funds and waste. . . .

With reason, when Congress later added proprietary schools to the Higher Education Act, it specified that only schools that prepared students for gainful employment were eligible. However, the Department of Education has never defined, much less made much of any attempt to enforce this requirement. In the negotiated rulemaking on program integrity the Department initiated in 2009, the Department proposed a definition that is a modest step toward enforcement of this requirement. The proposal, which it has yet to officially propose, would set a flag to identify programs for which the students' median loan debt would be more than 8 percent of the projected salaries (at the 25th decile of salaries determined by the Bureau of Labor Statistics for the occupations for which the training is to prepare students). Programs that could not meet that standard would still be eligible if the school could demonstrate that the median debt load is less than 8 percent of the actual salaries graduates of those programs earn, or if 90 percent of the graduates of the program did not default (with "default" defined more accurately than under the current cohort default rate standards).

Given that the 8 percent standard is usually used by lenders to determine the amount of all non-housing debt a borrower should reasonably carry, and that many students at proprietary schools are older and already have other debts such as auto loans and credit card debts, the 8 percent standard may be too high, especially for those whose salaries would be less than 150 percent of the poverty level. Nevertheless, it is a modest, reasonable first step. I believe the debt load of those who enroll, but do not complete also needs to be considered, so that there is no temptation for the bad actors to discourage those with the highest debt loads from completing the course, in order to lower the median debt load of students in a program.

The Department's proposal, however, deals only with the "gainful" part of the phrase, not with the "employment" part. If a school does a poor job of training students, even if the program met the 8 percent or related criteria mentioned above, it might still have a minority of graduates who could actually obtain employment. Consequently, proprietary school programs should also have to meet a certain level of employment. In California, for example, for 19 years, proprietary schools were required to have at least 70 percent of the graduates from a program obtain employment within 6 months, in a position that lasted at least 60 days, for at least 32 hours a week. (Part time employment could also count if the student had specified in advance of the program and at the end that the student only wanted part-time employment.) As was obvious from my testimony, there needs to be some way to verify that claimed employment levels are true. One suggestion for accuracy in employment statistics is to require use of State unemployment insurance data, which some States already do for community colleges.

A current provision under the Higher Education Act, which was enacted back when most programs were much shorter, applies only to short courses. The Department has now proposed to apply it more broadly, so far, as a reporting device only. Based on my experience, to be used more broadly, the existing provision needs to be strengthened and improved to prevent manipulation. For example, under the current provision, while accurate reporting would be helpful, the existing provision would not be useful. The documentation of employment allowed would not demonstrate that the employment really meets the standard. The current provision also relies on an "attestation engagement" by an accountant to verify the reported percentages, but the lack of specificity as to the sampling needed, and other details I believe, leaves this provision open to false or inflated reports.

And, as noted above, completion rates also need to be tracked and verified, and a standard set to insure schools are not manipulating the data by discouraging completion by students they consider least likely to be able to get a job. In California, for example, after certain exceptions—death, military service, those who canceled within the 100 percent full refund cancellation period, etc.—authorized programs had to show 60 percent of those enrolled completed the program.

I view such standards as critical to separating out the good from the bad actors. Good schools would continually evaluate their programs, eliminating or revising those that have high debt levels in comparison to salaries available or whose graduates are unable to find work in the field in which they trained. The proprietary schools' lobbying arm, CCA, has represented that more than 80 percent of the programs it surveyed would meet the 8 percent flag, and likely additional programs would meet one of the two alternatives, although CCA did not run the numbers for the alternatives. It is unclear how many programs would meet a 70 percent employment requirement, but most national accrediting agencies already claim to have that high, or a higher standard. In California, until 2008, that was the standard schools were required to meet. The requirement did not seem to have slowed the development of proprietary schools in California (although the State agency charged with enforcement apparently did little to enforce the law).

Schools should also be required to report on their Web sites, if they have one, their statistics for each program offered, as well as to provide a fact sheet to every prospective student showing the information for the program in which the prospective student has expressed an interest. Currently, there is no competition among schools based on such quality factors because those factors are not transparent. Making them transparent, if they are verified/monitored for accuracy, would provide some possibility of competition arising based on these quality criteria. Such real competition would help the good schools.

While the Department could promulgate these changes, it has yet to do so. Congressional action might be needed. Of course there might need to be provisions related to an employment requirement to address extraordinary circumstances, such as limited employment available in a particular region after a major disruption, e.g., after hurricane Katrina, or to address the time lag for getting the results from licensing exams.

2. STRICTLY PROHIBIT QUOTAS AND INCENTIVE COMPENSATION FOR RECRUITING AND FINANCIAL AID

The recent Department of Education proposed regulation on incentive compensation goes a long way to restoring the full intent of the statute prohibiting incentive compensation. I am concerned, however, that a few possible loopholes may still exist and will be working with others to comment on the proposed rule. In addition, I also recommend a statutory change to make very clear that the use of quotas in connection with compensation for such staff is prohibited. From the information I have seen, it appears schools may be trying to get around the prohibition on incentive compensation by setting quotas and punishing in some way or firing those who do not reach the quota. While this may well be covered under the current statute, additional clarity would be advisable.

The payment of incentive compensation or the use of quotas for those involved in or supervisors over admissions or financial aid tasks is particularly pernicious. Prospective students are likely to trust the "admissions advisor," "financial aid advisor," or school director as a person there to assist them. Prospective students don't readily realize they are dealing with commissioned sales persons, as they would when, e.g., buying a car.

Good schools can compete on the basis of quality, and need not compete on incentives. The natural result of incentives/quotas is to encourage some of the types of abuse noted at the hearing, including misrepresentations, enrolling students ill-suited to a particular training program, or providing training that does not qualify the graduates for employment.

3. PUBLISH AND BASE CONTINUED ELIGIBILITY ON LIFE-TIME COHORT DEFAULT RATES

Proprietary schools first came fully into the Higher Education Act financial aid programs in 1972. By the mid-80s, stories of fraud and abuse and high default rates were accumulating. One of the provisions enacted after the 1992 hearings by the Senate Permanent Subcommittee on Investigations was to eliminate from eligibility, schools with high default rates. Initially, that change had an impact, but the law has been watered down over the years, and schools have learned how to manipulate the data to prevent defaults from showing up within the time (2, soon to be 3 years) in which defaults are measured. Both the Inspector General and the GAO have pointed out that the short-time cohort default rate is a misleading indicator. It is a mere snapshot in time that does not give a full picture of default trends.[4]

There are problems not only with the time period, but also with the cohort rate calculation method. In addition, the default measure does not include borrowers that are current, but struggling with overly burdensome debt or borrowers that are delinquent, but not yet in default (i.e., less than 9 months behind in their payments). These problems are expected to grow as interest rates rise along with borrowing levels.

Unless cohort default rates are tracked for the life, schools will continue to be able to manipulate this limitation. Additionally, the default rate cut-off applied to each interval of time tracked should be a reasonable measure of defaults in credit markets that are not skewed by an influx of Federal loans. For example, current default limits over 2 years of 25 percent (soon to be 30 percent over 3 years) are extraordinarily high compared to normal market-based credit default rates. Congress needs to act to make these changes.

4. REQUIRE REAL STANDARDS FOR STATE AUTHORIZATION AGENCIES

Traditionally, the Higher Education Act has depended on the triad of oversight, requiring a school to be accredited by a recognized accrediting agency, to be "legally authorized within [the State in which it operates] to provide a program of education beyond secondary education," and to submit to the provisions of a participation agreement with the Department of Education. Currently, however, proprietary schools and their allies, the accrediting agencies, have successfully lobbied many States to rely on accreditation for most, if not all of their State oversight responsibilities. The Department of Education recently proposed a regulation that would require States to undertake at least some of the responsibilities contemplated by law, but apparently under pressure from some schools and accrediting agencies, failed to fully address the statutory requirements for State oversight. Current law requires the State agency to notify the Department of Education promptly of any fraud or substantial violation of the Higher Education Act, but the proposed rule does not require the State to have any mechanism by which it would be likely to notice such conduct.

The Department has never had sufficient resources to adequately police the fraud and abuse in the proprietary sector. In my experience, local or State agencies are in a much better position to learn about problems early. As discussed below, accrediting agencies are not designed to fulfill this role. The Department's proposed regulation needs to be strengthened or the law needs to be revised to make clear that schools are not eligible if the State agency in the State in which the school operates relies on accrediting agencies for its essential functions. State agencies must themselves approve schools, monitor their compliance with provisions of the Higher Education Act or with State provisions that are as strong, or stronger than the Higher Education Act, and act to revoke authorization of schools that are not in compliance.

5. REFORM ACCREDITING AGENCY ROLE AND REQUIREMENTS

As was pointed out at the hearing, the advisory commission that recommends to the Department of Education about accrediting agency recognition is heavily loaded with representatives or employees of schools that live or die by accreditation; there is an incestuous relationship between accrediting agency boards and the schools they accredit; and schools are using purchase of small, previously accredited schools to gain accreditation, then expanding the schools beyond all recognition from the school and programs originally accredited. As I pointed out, virtually every school I have prosecuted was accredited, but accreditation did not address the poor outcomes, nor stop abuse and fraud. Typically, among other limitations, accrediting agencies have very small staffs, rely on volunteer staff from members to evaluate other members, do not have trained investigators or prosecutors involved in designing their oversight activities, do not set specific enough "standards" so that one can

[4] See, e.g., U.S. Department of Education, Office of Inspector General, "Final Audit Report: Audit to Determine if Cohort Default Rates Provide Sufficient Information on Defaults in the Title IV Loan Program", ED–OIG/A03–C0017 (December 2003); General Accounting Office, "Student Loans: Default Rates Need to be Computed More Appropriately", GAO/HEHS–99–135 (July 1999).

tell if they have been violated, have non-transparent procedures, and keep information about problems gathered confidential.

Congress needs to address these deficiencies. At a minimum, the advisory commission needs to be revised so that the majority represents consumer and student interests, not the interests of schools that depend on accreditation. To the extent the financial aid programs continue to rely on accrediting agencies, minimum uniform criteria need to be established, particularly outcome criteria which all recognized accrediting agencies will monitor for compliance. Criteria, such as how much work is required for a unit of credit should not be based on accrediting agency determinations, but should be required to be set by the Department, and monitored by accrediting agencies.

6. REVISE 90/10 REQUIREMENT

One of the requirements that came out of the 1992 hearings on proprietary school fraud and abuse was the requirement that at least 15 percent of a school's revenues should come from other than title IV funds. This provision was derived from, but did not track the requirement for Veterans' programs. The rule for Veterans' programs was that at least 15 percent of the students must not use the GI benefit to pay for their schooling. This requirement was established because after the first GI bill, proprietary schools developed to capture the veterans benefits proliferated, and fraud and abuse were rampant (see above). Proprietary schools later successfully reduced the percentage not to be from title IV financial aid funds to 10 percent. Nevertheless, proprietary schools continue to operate near the 90 percent title IV subsidized margin. After lobbying Congress to be able to count all institutional loans toward their 10 percent in the years in which the loans are made (rather than when they are repaid), some proprietary schools began to offer, or increase their offering of school financing. Some schools admit they expect to collect less than 50 percent of the amounts owed on their loans for students, suggesting these "loans" are driven, in part, by the need to come up with enough non-Federal funding to meet the watered down 10 percent. Apparently and perversely, some proprietary schools are increasing their fees above the amount available in title IV grants and loans as a strategy for meeting the 10 percent that cannot be from title IV funds.

Even if one looks at just independent students taking 4-year programs at public, non-profit, and for-profit schools, the percentage of borrowers varies dramatically. In the publics and non-profits, 24 percent to 31 percent of students have no Federal loans, but at the for-profits, only 4 percent do not have Federal loans. The concept of the Veterans' 85/15 limit is that in the marketplace, a good school could attract at least 15 percent of its students without reliance on the Veteran benefit. The 90/10 limit under title IV needs to be restructured. I would recommend that it be changed to be 85/15 and to apply not to revenues, but to the numbers of students who receive any Federal student financial aid, whether grants or loans under title IV, the VA, or similar programs. Proprietary schools will likely argue that because they attract a lower income student, such a restriction would not be possible for them. One has to wonder, however, if they are providing a good education, why they are not also attracting some higher-income students. Some higher income students do want to become radiologists, vocational nurses, computer technicians or obtain Bachelors' or advanced degrees in career-focused fields. This change would incentivize proprietary schools not to raise tuition, but to lower it, as they would have to compete for students in the market generally, rather than just trying to maximize the financial aid the school can collect by selling dreams of a career to poor people.

This change would have to be accompanied by a strict requirement that the school must first make known to the student all financial aid the student can qualify for, before offering information about private, non-Federal loans so that schools would not just push students into even higher interest, less favorable private loans. It would also have to be accompanied by some changes in private loans, as discussed below.

7. CHANGE INCENTIVES FOR PRIVATE LENDERS AND SCHOOLS BY ENSURING THE EXISTING FTC HOLDER RULE IS ENFORCED AGAINST LENDERS

Under the Federal Trade Commission's rule, commonly referred to as the "Holder Rule," sellers of consumer goods and services are required to include a provision in credit contracts they assign to a lender, or in loans if they refer the consumer to the lender or arrange the loan, that makes the creditor subject to the same claims and defenses the purchaser could assert against the seller. This standard rule prevents a seller from selling a defective product, but having the payments due to another party who claims the right to collect, even though the product is defective. Unfortunately, some courts have held that if the seller (in this case, the school) does not see to it that the provision is in the credit document, the creditor is not bound by the rule.

The FTC does not regulate lenders, so it cannot require them to include the provision, and the agencies that do regulate lenders have failed to promulgate a parallel rule. This means that lenders need have little concern about whether the school is good or not. This inconsistency needs to be addressed so that lenders will have incentives to provide credit only for students at good schools, or to require schools to put up a deposit to cover potential future claims or defenses to payment. Congress should address this by requiring the notice in contracts for student loans and by specifying that the lender is liable, whether or not the notice is included, if the notice should have been included by law.

In connection with the "holder" issue, schools should be required to certify all private student loans and that the student has exhausted all means of Federal financing, before a private loan may be disbursed. This would also insure that when schools are determining their students' loan debt, they are including any private loans the student may have.

8. STUDY AND ESTABLISH APPROPRIATE STANDARDS FOR DISTANCE EDUCATION

This is probably the fastest growing segment of proprietary schools and the area most susceptible to abuse. Before 2006, eligible schools were limited to providing distance education, including correspondence courses, for no more than 50 percent of their students and no more than 50 percent of their courses. Despite caution from the GAO and IG[5] that removing this limitation without better controls would lead to increased fraud and abuse, the limit was lifted as to telecommunications courses (those offered by electronic means), but not as to correspondence courses. The only limit on telecommunications courses is that they must provide regular and substantive interaction between the student and teacher, but that interaction need not be synchronous. The only clarification of those terms states that the interaction must be at regular intervals and not be trivial.

This provision leaves the student financial aid programs wide open to fraud and abuse. Among other issues, for-profit schools may purchase a small, reputable school, then turn the school into a massive online college, with virtually no oversight. A further concern must be that schools that may have been providing good, needed hands-on programs at an on-site facility, will be tempted to reduce costs by going to all, or almost all on-line programs. Although telecommunications programs are required to be accredited, the GAO has found the same lack of accrediting agency standards here as noted above.

In her testimony, the Inspector General also noted her concern about the lack of measures to insure Federal dollars are not being spent for little or no benefit because of the lack of oversight of distance education programs. Congress should reinstate the 50 percent limitation on on-line programs until the means to prevent abuse can be studied and implemented. There needs to be a study to establish what requirements and monitoring needs to be implemented to prevent the massive potential for problems in this burgeoning area.

9. REQUIRE CANCELLATION PERIODS AND PRO-RATA REFUNDS, AND PROHIBIT CONTRACTUAL OBLIGATION OR PAYMENT BEYOND ONE TERM OR FOUR MONTHS

Each of these suggestions have in common that they offer a measure of self-help to students who may find themselves in one of the "bad actor" schools, and that they have been used in one or more States to curb abuses, but without preventing good schools from flourishing.

In California, the State law for 19 years required proprietary schools to provide a full refund (except for a modest registration fee) to any student who canceled the program within the first 5 class days. That way, there was a chance the student would discover if the equipment or facilities were lacking, or if teachers were untrained or had no practical experience before the student had spent thousands of dollars on a worthless education. Other States prevent the school from keeping even a registration fee if the student cancels on or before the first day of class. While bad actor schools become adept at giving a good first impression, some students may discover the problems in this initial period.

[5] General Accounting Office, "Distance Education: Improved Data on Program Costs and Guidelines on Quality Assessments Needed to Inform Federal Policy," GAO–04–279 (February 2004); see also 2009 testimony at *http://edlabor.house.gov/documents/111/pdf/testimony/20091014MaryMitchelsonTestimony.pdf.*

For 19 years, California required proprietary schools to provide a full pro-rata refund throughout the program. That requirement reduced the churn from schools constantly admitting new students and ignoring students' needs once they passed an arbitrary percentage (which varies by school) of the course after which students were no longer entitled to any refund. Oregon has used a similar concept, prohibiting schools from collecting from students or obligating students for more than one term or four months. Again, students under this system might lose some money on a bad school, but when they realize that things are not as represented, they are free to leave, without being obligated for many months more. Without such a policy, students report that the school responds to their complaints by saying, the student already owes all the money, so there is no point to quitting out of dissatisfaction with the program.

10. REQUIRE ABILITY TO BENEFIT TESTING, EITHER FOR ALL STUDENTS, OR AT LEAST FOR ALL STUDENTS WHO DID NOT GRADUATE FROM A PUBLIC HIGH SCHOOL; ELIMINATE 6 UNIT ALTERNATIVE MEASURE FOR ENTRANCE UNTIL SUFFICIENT STUDY AT PROPRIETARY SCHOOLS HAS OCCURRED

To be admitted, students are supposed to have a high school diploma, or pass a test demonstrating their ability to benefit from the program being offered. The Inspector General has testified that $12 billion in financial aid was granted in fiscal year 2009 based on results of Ability-to-Benefit (ATB) tests.[6] Needless to say, this has been a well-known area where fraud occurs. The Department has recently proposed much-needed changes, but I believe those are inadequate to clean up this problem area.

There has been no definition of "high school diploma," so that proprietary schools could turn a blind eye to bogus diplomas which could be obtained for a fee. The Department has proposed to require schools to have procedures to deal with suspect diplomas, but the proposed rule still leaves a lot of room for turning a blind eye. Additionally, a high school diploma may not be adequate to determine if a prospective student has the basic skills needed for the coursework for particular careers.

Current rules require an ability-to-benefit (ATB) test to be administered to non-high school graduates by an independent tester. This requirement has had limited impact, however, as testers are generally selected by the school, give the tests at the school, and rely on the school to maintain the tests and answer sheets. Apparently, the so-called "independent" testers do not run a business in which they have the facilities to guard the tests themselves. Recently, the GAO found in undercover operations that tests were not administered properly, but instead were compromised to ensure the student could be admitted. It is unclear whether the ATB test is even required for students who did graduate from high school, but in a country in which their education was in another language. Sometimes such students are told courses will be offered in their language, but ultimately they are put in English-only classes they cannot hope to comprehend.

Under the law, the Department is charged with determining appropriate test scores to allow eligibility. This is also problematic because the Department has not interpreted the law to require ability to benefit from the specific program for which a student is enrolling, but rather, to be simply the equivalent of having a high school diploma. Obviously, the beginning skills for, say, security guard, may be different from those required for a sonographer or radiologist or cosmetologist.

In addition, recently, on the basis of a study carried out in community colleges, an alternative measure—the successful completion of 6 units—is now allowed to determine whether a student may be eligible for Federal financial aid. This provision has been enacted, but there are virtually no regulations to prevent abuse. Those schools that simply want more students can easily manipulate this provision to claim students have successfully completed some course that is available to complete some program.

In short, the current ability-to-benefit process needs overhaul. Tests should be related to the skills that are needed to succeed in the particular program in which the student is enrolling. Tests should be administered at a location away from the school, by persons not recruited by the school, who have sufficient resources to guard tests and answer sheets from being compromised. If all students are required to be tested, unless they graduated from a public high school, the problem with bogus high school diplomas can be reduced, if not eliminated. Testing of all students, even if they have a public high school diploma, would help prevent students

[6] *http://studentlendinganalytics.typepad.com/student_lending_analytics/2009/10/highlights-from-house-hearing-on-oversight-of-atb-testing-and-diploma-mills-11-of-aid-recipients-ent.html.*

enrolling in programs for which they do not have the basic skills necessary. And the 6-unit alternative should be allowed in proprietary schools only after adequate study in proprietary schools to show it is comparable to testing.

11. EXPAND BASES FOR LOAN DISCHARGE AND REQUIRE REIMBURSEMENT FROM SCHOOL OR LENDER OR ALLOW STUDENTS TO SEEK REMEDIES DIRECTLY FROM SCHOOL AND LENDER

Students could play a role in program integrity if they had tools to do so. Currently, however, students may only have their student loans canceled (discharged) by the Department of Education in very narrow circumstances, such as the school's false certification of the student's ability to benefit, the school's failure to properly return title IV money, or the school's closure. The student's burden to prove the false certification discharge is very difficult, given that the Department (in some cases) and the school have the needed records, which the student does not have. Additionally, the Department has been very limited in agreeing to cancellation for groups of students, even if there is a judgment finding the false certification applied to an entire group of students, or if the Department has similar claims from students in its files evidencing the alleged false certification by the same school. Additionally, to be effective in stopping bad actors, the Department needs to be aggressive in recovering money from schools that have falsely certified eligibility. Sometimes, of course, the Department's failure to collect is because the school has closed, without funds to repay the loan.

The other traditional remedy for fraud and abuse, a civil action, is not readily available. It is not allowed under current Federal law. Employees who have witnessed false claims for Federal money by the school may sue and recover a share of the money paid in the judgment. Students, however, have no right to sue under the Higher Education Act. They may be able to assert claims under State law. But even there, they are often thwarted because the school requires arbitration in which the students' ability to discover needed facts is limited, rather than allowing a lawsuit.

In addition to the limits on these means of redress by students, claims students do pursue successfully are generally not publicly known. Arbitration proceedings are generally private, not public, like courts. Schools often require students' confidentiality to settle a claim and often also prohibit the student from discussing their grievance with others. Sometimes such confidentiality provisions seem to prevent the student even from contacting government agencies about the issue. Typically, evidence of wrongdoing in private arbitrations or actions that settle is hidden away, not available to the Department, accrediting agencies or law enforcement agencies.

These limits on redress and on public information about settlements of disputes both artificially depress Congress' and the public's awareness of problems, and prevent students from playing a larger role in program integrity. Congress should examine these limitations to increase the part students play in program integrity. In particular, notice of settlements should be provided to the Department and law enforcement agencies, and evidence developed that points to violations of the Higher Education Act should be required to be made available to the Department and law enforcement agencies.

12. CONSIDER ESTABLISHING TUITION RECOVERY FUND

One remedy that has been used in States, including in California, is the establishment of a tuition recovery fund, funded by fees on schools, based on numbers of students or amount of tuition. Students can collect from such a fund if they obtain a judgment against a school which they cannot collect, if they were enrolled in programs which the school stopped offering before the student could complete, or if the school itself closed before the student could complete the program.

13. REQUIRE A HIGHER RATIO OF CURRENT ASSETS TO LIABILITIES

One recurring problem is when a school takes in tuition fees in the form of Federal aid, then closes before students can complete their programs. Because the proprietary schools' educational quality often does not measure up to non-profit or public schools, the credits the students have already received are not transferable. Indeed, even when proprietary schools have the opportunity to make their credits transfer, they frequently choose not to do so, forcing the student to continue at the proprietary school or have to start over at another school. Sometimes so-called "teach-outs" are offered at another school, but often they are inadequate or require additional expenditures to complete the program the student has already paid for. Currently, only a 1 to 1 ratio of current assets to liabilities is required under Federal law. A 1 to 1 ratio is, in essence, a penny away from bankruptcy. The ratio is too low. In other businesses, ratios of 2 to 1 are considered appropriate. In California, schools had to have at least a 1.25 to 1 ratio (excluding such intangible assets as good will). The requirement, if enforced, could reduce the number of such closures while still allowing stable schools to flourish.

14. DIRECT MORE FEDERAL FUNDS TO COMMUNITY COLLEGES

Although this may be outside of your question, it may be a necessary component. I believe there are sound grounds to direct funds to public community colleges which perform some functions similar to proprietary schools, but at a much lower cost to students and the government. State community college systems reach throughout the country. In many cases, State community college systems have the flexibility in schedules and in developing new programs that proprietary schools tout. Students who go to community colleges, however, borrow much less, wind up with less debt service after they finish, and, if they want to continue their education, generally can transfer credits to other public schools in the State. I think we need to seriously look at whether funds would be allocated more equitably, and whether we would be better able to serve the population if more funds were directed to community colleges, rather than continuing the massive increases in the dollar amount and proportion of Federal funds spent supporting proprietary schools.

I have tried to list some of the most salient improvements I believe are needed, based on my experience as a prosecutor. Others with expertise in different aspects of the student financial aid programs may suggest other valuable provisions, so I don't contend the list is necessarily comprehensive. Also, to the extent some changes are made, others may be less (or more) necessary. As a former prosecutor, I find it very frustrating that the main way to address the fraud, abuse and waste currently seems to be by expensive, resource-intensive, time-consuming litigation, including prosecutions. I recognize that implementation of these suggestions would require careful drafting. I am quite willing to cooperate with you and the other members of the committee in drafting provisions so that the incentives can be turned around to operate to reduce the waste in the use of Federal financial aid in the proprietary school sector.

QUESTIONS OF SENATOR HAGAN

Question 1. At the end of fiscal year 2010, there are estimated to be over $700 billion in outstanding, federally backed student loans. Taxpayers are backing almost all of those loans.

I realize that this question can apply equally to non-profit institutions as well, but since we're talking about the for-profit industry today, could any of the witnesses tell me what specific, quantitative measurements we have across the industry to tell us what the taxpayers are getting for all that money? What sort of industry-wide performance measures are available to help us better understand the performance of institutions that survive on the largess of the taxpayer?

Answer 1. Currently, virtually, none. The most we have is the very short period of cohort default rate reporting, which we have seen can easily be manipulated. A student can be behind in payments for 9 months before being in default and usually has a grace period right after graduation. Available deferments or forbearances, e.g., if unemployed, can stretch this period out even further, so that a diligent school can keep a student out of default the entire 2-year period, even if the student never makes a payment. This manipulation is most evident from the Department's reporting on school default rates in anticipation of the new requirement to track defaults over 3 years. There were huge differences between default rates for the current 2-year reporting period and the 3-year reporting period that will apply in the future. See *http://federalstudentaid.ed.gov/datacenter/cohort.html*.

Question 2. Some say that the for-profit sector is highly regulated with oversight from the U.S. Department of Education, State licensure agencies and accrediting bodies. Others may disagree, citing that much more needs to be done.

That said, what are your thoughts on how can we better align the goals of each of these agencies so that everyone is demanding the highest quality outcomes for every institution?

Answer 2. I believe that substantial changes are needed with respect to accrediting agencies and State agencies.

THE ROLE AND REQUIREMENTS FOR ACCREDITING AGENCIES NEED TO BE REFORMED

As was pointed out at the hearing, the National Advisory Committee on Institutional Quality and Integrity, the body that recommends to the Department of Education about accrediting agency recognition is heavily loaded with representatives or employees of schools that live or die by accreditation; there is an incestuous relationship between accrediting agency boards and the schools they accredit; and schools are using purchase of small, previously accredited schools to gain accreditation, then expanding the schools beyond all recognition of the school and programs originally accredited. As I pointed out, virtually every school I have prosecuted was accredited, but accreditation did not address the poor outcomes, nor stop abuse and fraud. Typically, among other limitations, accrediting agencies have very small staffs, rely on staff from members to evaluate other members, do not have trained investigators or prosecutors involved in designing their oversight activities, do not set specific enough "standards" so that one can tell if they have been violated, have non-transparent procedures, and keep information about problems gathered confidential.

At a minimum, the advisory commission needs to be revised so that the majority represents consumer and student interests, not the interests of schools that depend on accreditation. To the extent the financial aid programs continue to rely on accrediting agencies, the Department needs to specify minimum uniform criteria, particularly outcome criteria in which all recognized accrediting agencies will monitor for compliance. Criteria, such as how much work is required for a unit of credit should not be based on accrediting agency determinations, but should be set by the Department, and monitored by accrediting agencies.

REQUIRE REAL STANDARDS FOR STATE AUTHORIZATION AGENCIES

Traditionally, the Higher Education Act has depended on the triad of oversight, requiring a school to be accredited by a recognized accrediting agency, to be "legally authorized within [the State in which it operates] to provide a program of education beyond secondary education," and to submit to the provisions of a participation agreement with the Department of Education. Currently, however, proprietary schools and their allies, the accrediting agencies, have successfully lobbied many States to rely on accreditation for most, if not all of their State oversight responsibilities. The Department of Education recently proposed a regulation that would require States to undertake at least some of the responsibilities contemplated by law, but apparently under pressure from some schools and accrediting agencies, failed to fully address the statutory requirements for State oversight. Current law requires the State agency to notify the Department of Education promptly of any fraud or substantial violation of the Higher Education Act, but the proposed rule does not require the State to have any mechanism by which it would be likely to notice such conduct.

The Department has never had sufficient resources to adequately police the fraud and abuse in the proprietary sector. In my experience, local or State agencies are in a much better position to learn about problems early. As discussed above, accrediting agencies are not designed to fulfill this role. The Department's proposed regulation needs to be strengthened or the law needs to be revised to make clear that schools are not eligible if the State agency in the State in which the school operates relies on accrediting agencies for its essential functions. State agencies must themselves approve schools, monitor their compliance with provisions of the Higher Education Act or with State provisions that are as strong, or stronger than the Higher Education Act, and act to revoke authorization of schools that are not in compliance.

Question 3. Many of you in your testimony mention the "90/10 rule", the provision that requires proprietary institutions of higher education to have at least 10 percent of the institution's revenues from sources that are not derived from funds provided through Federal financial aid.

Is there a way to more accurately track the percentage of title IV dollars that schools receive?

Answer 3. I don't have sufficient information to answer.

Question 4. As you know, the purpose of this hearing is for all of us to get a better sense of how well the for-profit education industry is serving students. We know that there are good actors as well as bad actors in the for-profit education industry.

For those of us who want to ensure that anyone who has the drive and desire to get a high-quality education is able to do so, how do you suggest we work together to better identify those schools that are getting the job done and those that aren't?

Answer 4. In addition to my comments above about accrediting agencies and State agencies, I offer the following suggestions to help us better identify those schools that are getting the job done and those that aren't. In making these suggestions, I am aware of the long reported history of fraud, abuse, and failure to adequately train students in the proprietary school sector. Past efforts at the Federal level and in some States to sort the good from the bad have at times made progress, but have often been insufficient. In general, most of the suggestions are remedies that have been used by California or other States or are revisions to laws that were enacted after the Nunn hearings, but have been weakened over time. The suggestions aim to change the incentives, so that schools will need to do a good job to succeed. That is in contrast to the current state of affairs, in which incentives encourage a rush to the bottom. Some remedies have been widely discussed, and I will only mention them briefly as you are undoubtedly already familiar with them. First, I list the suggestions. More detail about each suggestion then follows:

1. Define and Enforce the Longstanding Requirement that Proprietary Programs (and certain other programs) Prepare Students for Gainful Employment.
2. Strictly Prohibit Quotas and Incentive Compensation for Recruiting and Financial Aid.
3. Publish and Base Continued Eligibility on Life-time Cohort Default Rates.
4. Revise 90/10 Requirement.
5. Change Incentives for Private Lenders and Schools by Ensuring the Existing FTC Holder Rule Is Enforced Against Lenders.
6. Study and Establish Appropriate Standards for Distance Education.
7. Require Cancellation Periods and Pro-rata Refunds, and Prohibit Contractual Obligation or Payment Beyond One Term or 4 Months.
8. Require Ability to Benefit Testing, Either for All Students, or at Least for All Students Who Did Not Graduate From a Public High School; Eliminate 6 Unit Alternative Measure for Entrance Until Sufficient Study at Proprietary Schools Has Occurred.
9. Expand Bases for Loan Discharge and Require Reimbursement from School or Lender or Allow Students to Seek Remedies Directly from School and Lender.
10. Require a Higher Ratio of Current Assets to Liabilities.

1. DEFINE AND ENFORCE THE LONGSTANDING REQUIREMENT THAT PROPRIETARY PROGRAMS (AND CERTAIN OTHER PROGRAMS) PREPARE STUDENTS FOR GAINFUL EMPLOYMENT.

Congress apparently first noted the widespread exploitation of students by proprietary schools after enactment of the GI bill after World War II. The House Select Committee to Investigate Educational, Training, and Loan Guaranty Programs under GI bill, 2/14/1952 describing the abuses in the GI bill from 1944 to 1950 in connection with recommending safeguards for veterans of the Korean War noted, inter alia:

> "Exploitation by private schools has been widespread."
> "There was a rapid uncontrolled expansion of private profit schools. . . ."
> "Many schools have offered courses in fields where little or no employment opportunity existed."
> "Training programs have been approved for unskilled or semi-skilled occupations where little or no training was required, resulting in needless expenditure of funds and waste. . . ."

With reason, when Congress later added proprietary schools to the Higher Education Act, it specified that only schools that prepared students for gainful employment were eligible. However, the Department of Education has never defined, much less made much of any attempt to enforce this requirement. In the negotiated rulemaking on program integrity the Department initiated in 2009, the Department proposed a definition that is a modest step toward enforcement of this requirement. The proposal, which it has yet to officially propose, would set a flag to identify programs for which the students' median loan debt would be more than 8 percent of the projected salaries (at the 25th decile of salaries determined by the Bureau of Labor Statistics for the occupations for which the training is to prepare students). Programs that could not meet that standard would still be eligible if the school could demonstrate that the median debt load is less than 8 percent of the actual salaries graduates of those programs earn, or if 90 percent of the graduates of the program did not default (with "default" defined more accurately than under the current cohort default rate standards).

Given that the 8 percent standard is usually used by lenders to determine the amount of all non-housing debt a borrower should reasonably carry, and that many students at proprietary schools are older and already have other debts such as auto loans and credit card debts, the 8 percent standard may be too high, especially for those whose salaries would be less than 150 percent of the poverty level. Nevertheless, it is a modest, reasonable first step. I believe the debt load of those who enroll, but do not complete also needs to be considered, so that there is no temptation for the bad actors to discourage those with the highest debt loads from completing the course, in order to lower the median debt load of students in a program.

The Department's proposal, however, deals only with the "gainful" part of the phrase, not with the "employment" part. If a school does a poor job of training students, even if the program met the 8 percent or related criteria mentioned above, it might still have a minority of graduates who could actually obtain employment. Consequently, proprietary school programs should also have to meet a certain level of employment. In California, for example, for 19 years, proprietary schools were required to have at least 70 percent of the graduates from a program obtain employment within 6 months, in a position that lasted at least 60 days, for at least 32 hours a week. (Part time employment could also count if the student had specified in advance of the program and at the end that the student only wanted part-time employment.) As was obvious from my testimony, there needs to be some way to verify that claimed employment levels are true. One suggestion for accuracy in employment statistics is to require use of State unemployment insurance data, which some States already do for community colleges.

A current provision under the Higher Education Act, which was enacted back when most programs were much shorter, applies only to short courses. The Department has now proposed to apply it more broadly, so far, as a reporting device only. Based on my experience, to be used more broadly, the existing provision needs to be strengthened and improved to prevent manipulation. For example, under the current provision, while accurate reporting would be helpful, the existing provision would not be useful. The documentation of employment allowed would not demonstrate that the employment really meets the standard. The current provision also relies on an "attestation engagement" by an accountant to verify the reported percentages, but the lack of specificity as to the sampling needed, and other details I believe, leaves this provision open to false or inflated reports.

And, as noted above, completion rates also need to be tracked and verified, and a standard set to insure schools are not manipulating the data by discouraging completion by students they consider least likely to be able to get a job. In California, for example, after certain exceptions—death, military service, those who canceled within the 100 percent full refund cancellation period, etc.—authorized programs had to show 60 percent of those enrolled completed the program.

I view such standards as critical to separating out those which are getting the job done from those that are not. Good schools would continually evaluate their programs, eliminating or revising those that have high debt levels in comparison to salaries available or whose graduates are unable to find work in the field in which they trained. The proprietary schools' lobbying arm, CCA, has represented that more than 80 percent of the programs it surveyed would meet the 8 percent flag, and likely additional programs would meet one of the two alternatives, although CCA did not run the numbers for the alternatives. It is unclear how many programs would meet a 70 percent employment requirement, but most national accrediting agencies already claim to have that high, or a higher standard. In California, until 2008, that was the standard schools were required to meet. The requirement did not seem to have slowed the development of proprietary schools in California (although the State agency charged with enforcement apparently did little to enforce the law).

Schools should also be required to report on their Web sites, if they have one, their statistics for each program offered, as well as to provide a fact sheet to every prospective student showing the information for the program in which the prospective student has expressed an interest. Currently, there is no competition among schools based on such quality factors because those factors are not transparent. Making them transparent, if they are verified/monitored for accuracy, would provide some possibility of competition arising based on these quality criteria. Such real competition would help the good schools.

Of course there might need to be provisions related to an employment requirement to address extraordinary circumstances, such as limited employment available in a particular region after a major disruption, e.g., after hurricane Katrina, or to address the time lag for getting the results from licensing exams.

2. STRICTLY PROHIBIT QUOTAS AND INCENTIVE COMPENSATION FOR RECRUITING AND FINANCIAL AID

The recent Department of Education proposed regulation on incentive compensation goes a long way to restoring the full intent of the statute prohibiting incentive compensation. I am concerned however, that a few possible loopholes may still exist and will be working with others to comment on the proposed rule. In addition, I also recommend a statutory change to make very clear that the use of quotas in connection with compensation for such staff is prohibited. From the information I have seen, it appears schools may be trying to get around the prohibition on incentive compensation by setting quotas and punishing in some way or firing those who do not reach the quota. While this may well be covered under the current statute, additional clarity would be advisable.

The payment of incentive compensation or the use of quotas for those involved in or supervisors over admissions or financial aid tasks is particularly pernicious. Prospective students are likely to trust the "admissions advisor," "financial aid advisor," or school director as a person there to assist them. Prospective students don't readily realize they are dealing with commissioned sales persons, as they would when, e.g., buying a car.

Good schools can compete on the basis of quality, and need not compete on incentives. The natural result of incentives/quotas is to encourage some of the types of abuse noted at the hearing, including misrepresentations, enrolling students ill-suited to a particular training program, or providing training that does not qualify the graduates for employment.

3. PUBLISH AND BASE CONTINUED ELIGIBILITY ON LIFE-TIME COHORT DEFAULT RATES

Proprietary schools first came fully into the Higher Education Act financial aid programs in 1972. By the mid-80s, stories of fraud and abuse and high default rates were accumulating. One of the provisions enacted after the 1992 hearings by the Senate Permanent Subcommittee on Investigations was to eliminate from eligibility schools with high default rates. Initially, that change had an impact, but the law has been watered down over the years, and schools have learned how to manipulate the data to prevent defaults from showing up within the time (2, soon to be 3 years) in which defaults are measured. Both the Inspector General and the GAO have pointed out that the short-time cohort default rate is a misleading indicator. It is a mere snapshot in time that does not give a full picture of default trends.[7]

There are problems not only with the time period, but also with the cohort rate calculation method. In addition, the default measure does not include borrowers that are current, but struggling with overly burdensome debt or borrowers that are delinquent, but not yet in default (i.e., less than 9 months behind in their payments). These problems are expected to grow as interest rates rise along with borrowing levels.

Unless cohort default rates are tracked for the life, schools will continue to be able to manipulate this limitation. Additionally, the default rate cut-off applied to each interval of time tracked should be a reasonable measure of defaults in credit markets that are not skewed by an influx of Federal loans. For example, current default limits over 2 years of 25 percent (soon to be 30 percent over 3 years) are extraordinarily high compared to normal market-based credit default rates. Congress needs to act to make these changes.

4. REVISE 90/10 REQUIREMENT

One of the requirements that came out of the 1992 hearings on proprietary school fraud and abuse was the requirement that at least 15 percent of a school's revenue should come from other than title IV funds. This provision was derived from, but did not track the requirement for Veterans' programs. The rule for Veterans' programs was that at least 15 percent of the students must not use the GI benefit to pay for their schooling. This requirement was established because after the first GI bill, proprietary schools developed to capture the veterans benefits proliferated, and fraud and abuse were rampant (see above). Proprietary schools later successfully reduced the percentage not to be from title IV financial aid funds to 10 percent. Nevertheless, proprietary schools continue to operate near the 90 percent title IV subsidized margin. After lobbying Congress to be able to count all institutional loans toward their 10 percent in the years in which the loans are made (rather than when they are repaid), some proprietary schools began to offer, or increase their offering of school financing. Some schools admit they expect to collect less than 50 percent of the amounts owed on their loans for students, suggesting these "loans" are driven, in part, by the need to come up with enough non-Federal funding to meet the watered down 10 percent. Apparently and perversely, some proprietary schools are increasing their fees above the amount available in title IV grants and loans as a strategy for meeting the 10 percent that cannot be from title IV funds.

[7] See, e.g., U.S. Department of Education, Office of Inspector General, "Final Audit Report: Audit to Determine if Cohort Default Rates Provide Sufficient Information on Defaults in the title IV Loan Program", ED–OIG/A03–C0017 (December 2003); General Accounting Office, "Student Loans: Default Rates Need to be Computed More Appropriately", GAO/HEHS–99–135 (July 1999).

Even if one looks at just independent students taking 4-year programs at public, non-profit, and for-profit schools, the percentage of borrowers varies dramatically. In the publics and non-profits, 24 percent to 31 percent of students have no Federal loans, but at the for-profits, only 4 percent do not have Federal loans. The concept of the Veterans' 85/15 limit is that in the marketplace, a good school could attract at least 15 percent of its students without reliance on the Veteran benefit. The 90/10 limit under title IV needs to be restructured. I would recommend that it be changed to be 85/15 and to apply not to revenues, but to the numbers of students who receive any Federal student financial aid, whether grants or loans under title IV, the VA, or similar programs. Proprietary schools will likely argue that because they attract a lower income student, such a restriction would not be possible for them. One has to wonder, however, if they are providing a good education, why they are not also attracting some higher-income students. Some higher income students do want to become radiologists, vocational nurses, computer technicians or obtain Bachelors' or advanced degrees in career-focused fields. This change would incentivize proprietary schools not to raise tuition, but to lower it, as they would have to compete for students in the market generally, rather than just trying to maximize the financial aid the school can collect by selling dreams of a career to poor people.

This change would have to be accompanied by a strict requirement that the school must first make known to the student all financial aid the student can qualify for, before offering information about private, non-Federal loans so that schools would not just push students into even higher interest, less favorable private loans. It would also have to be accompanied by some changes in private loans, as discussed below.

5. CHANGE INCENTIVES FOR PRIVATE LENDERS AND SCHOOLS BY ENSURING THE EXISTING FTC HOLDER RULE IS ENFORCED AGAINST LENDERS

Under the Federal Trade Commission's rule, commonly referred to as the "Holder Rule," sellers of consumer goods and services are required to include a provision in credit contracts they assign to a lender, or in loans if they refer the consumer to the lender or arrange the loan, that makes the creditor subject to the same claims and defenses the purchaser could assert against the seller. This standard rule prevents a seller from selling a defective product, but having the payments due to another party who claims the right to collect, even though the product is defective. Unfortunately, some courts have held that if the seller (in this case, the school) does not see to it that the provision is in the credit document, the creditor is not bound by the rule.

The FTC does not regulate lenders, so it cannot require them to include the provision, and the agencies that do regulate lenders have failed to promulgate a parallel rule. This means that lenders need have little concern about whether the school is good or not. This inconsistency needs to be addressed so that lenders will have incentives to provide credit only for students at good schools, or to require schools to put up a deposit to cover potential future claims or defenses to payment. Congress should address this by requiring the notice in contracts for student loans and by specifying that the lender is liable, whether or not the notice is included, if the notice should have been included by law.

In connection with the "holder" issue, schools should be required to certify all private student loans and that the student has exhausted all means of Federal financing, before a private loan may be disbursed. This would also insure that when schools are determining their students' loan debt, they are including any private loans the student may have.

6. STUDY AND ESTABLISH APPROPRIATE STANDARDS FOR DISTANCE EDUCATION

This is probably the fastest growing segment of proprietary schools and the area most susceptible to abuse. Before 2006, eligible schools were limited to providing distance education, including correspondence courses, for no more than 50 percent of their students and no more than 50 percent of their courses. Despite caution from the GAO and IG [8] that removing this limitation without better controls would lead to increased fraud and abuse, the limit was lifted as to telecommunications courses (those offered by electronic means), but not as to correspondence courses. The only limit on telecommunications courses is that they must provide regular and sub-

[8] General Accounting Office, "Distance Education: Improved Data on Program Costs and Guidelines on Quality Assessments Needed to Inform Federal Policy," GAO–04–279 (February 2004); see also 2009 testimony at *http://edlabor.house.gov/documents/111/pdf/testimony/20091014MaryMitchelsonTestimony.pdf*.

stantive interaction between the student and teacher, but that interaction need not be synchronous. The only clarification of those terms states that the interaction must be at regular intervals and not be trivial.

This provision leaves the student financial aid programs wide open to fraud and abuse. Among other issues, for-profit schools may purchase a small, reputable school, then turn the school into a massive online college, with virtually no oversight. A further concern must be that schools that may have been providing good, needed hands-on programs at an on-site facility, will be tempted to reduce costs by going to all, or almost all on-line programs. Although telecommunications programs are required to be accredited, the GAO has found the same lack of accrediting agency standards here as noted above.

In her testimony, the Inspector General also noted her concern about the lack of measures to insure Federal dollars are not being spent for little or no benefit because of the lack of oversight of distance education programs. Congress should reinstate the 50 percent limitation on on-line programs until the means to prevent abuse can be studied and implemented. There needs to be a study to establish what requirements and monitoring needs to be implemented to prevent the massive potential for problems in this burgeoning area.

7. REQUIRE CANCELLATION PERIODS AND PRO-RATA REFUNDS, AND PROHIBIT CONTRACTUAL OBLIGATION OR PAYMENT BEYOND ONE TERM OR FOUR MONTHS

Each of these suggestions have in common that they offer a measure of self-help to students who may find themselves in one of the "bad actor" schools, and that they have been used in one or more States to curb abuses.

In California, the State law for 19 years required proprietary schools to provide a full refund (except for a modest registration fee) to any student who canceled the program within the first 5 class days. That way, there was a chance the student would discover if the equipment or facilities were lacking, or if teachers were untrained or had no practical experience before the student had spent thousands of dollars on a worthless education. Other States prevent the school from keeping even a registration fee if the student cancels on or before the first day of class. While bad actor schools become adept at giving a good first impression, some students may discover the problems in this initial period.

For 19 years, California required proprietary schools to provide a full pro-rata refund throughout the program. That requirement reduced the churn from schools constantly admitting new students and ignoring students' needs once they passed an arbitrary percentage (which varies by school) of the course after which students were no longer entitled to any refund. Oregon has used a similar concept, prohibiting schools from collecting from students or obligating students for more than one term or four months. Again, students under this system might lose some money on a bad school, but when they realize that things are not as represented, they are free to leave, without being obligated for many months more. Without such a policy, students report that the school responds to their complaints by saying, the student already owes all the money, so there is no point to quitting out of dissatisfaction with the program.

8. REQUIRE ABILITY TO BENEFIT TESTING, EITHER FOR ALL STUDENTS, OR AT LEAST FOR ALL STUDENTS WHO DID NOT GRADUATE FROM A PUBLIC HIGH SCHOOL; ELIMINATE 6 UNIT ALTERNATIVE MEASURE FOR ENTRANCE UNTIL SUFFICIENT STUDY AT PROPRIETARY SCHOOLS HAS OCCURRED

To be admitted, students are supposed to have a high school diploma, or pass a test demonstrating their ability to benefit from the program being offered. The Inspector General has testified that $12 billion in financial aid was granted in fiscal year 2009 based on results of Ability-to-Benefit (ATB) tests.[9] Needless to say, this has been a well-known area where fraud occurs. The Department has recently proposed much-needed changes, but I believe those are inadequate to clean up this problem area.

There has been no definition of "high school diploma," so that proprietary schools could turn a blind eye to bogus diplomas which could be obtained for a fee. The Department has proposed to require schools to have procedures to deal with suspect diplomas, but the proposed rule still leaves a lot of room for turning a blind eye. Additionally, a high school diploma may not be adequate to determine if a prospective student has the basic skills needed for the coursework for particular careers.

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[9] *http://studentlendinganalytics.typepad.com/student_lending_analytics/2009/10/highlights-from-house-hearing-on-oversight-of-atb-testing-and-diploma-mills-11-of-aid-recipients-ent.html.*

Current rules require an ability-to-benefit (ATB) test to be administered to non-high school graduates by an independent tester. This requirement has had limited impact, however, as testers are generally selected by the school, give the tests at the school, and rely on the school to maintain the tests and answer sheets. Apparently, the so-called "independent" testers do not run a business in which they have the facilities to guard the tests themselves. Recently, the GAO found in undercover operations that tests were not administered properly, but instead were compromised to ensure the student could be admitted. It is unclear whether the ATB test is even required for students who did graduate from high school, but in a country in which their education was in another language. Sometimes such students are told courses will be offered in their language, but ultimately they are put in English-only classes they cannot hope to comprehend.

Under the law, the Department is charged with determining appropriate test scores to allow eligibility. This is also problematic because the Department has not interpreted the law to require ability to benefit from the specific program for which a student is enrolling, but rather, to be simply the equivalent of having a high school diploma. Obviously, the beginning skills for, say, security guard, may be different from those required for a sonographer or radiologist or cosmetologist.

In addition, recently, on the basis of a study carried out in community colleges, an alternative measure—the successful completion of 6 units—is now allowed to determine whether a student may be eligible for Federal financial aid. This provision has been enacted, but there are virtually no regulations to prevent abuse. Those schools that simply want more students can easily manipulate this provision to claim students have successfully completed some course that is available to complete some program.

In short, the current ability-to-benefit process needs overhaul. Tests should be related to the skills that are needed to succeed in the particular program in which the student is enrolling. Tests should be administered at a location away from the school, by persons not recruited by the school, who have sufficient resources to guard tests and answer sheets from being compromised. If all students are required to be tested, unless they graduated from a public high school, the problem with bogus high school diplomas can be reduced, if not eliminated. Testing of all students, even if they have a public high school diploma, would help prevent students enrolling in programs for which they do not have the basic skills necessary. And the 6-unit alternative should be allowed in proprietary schools only after adequate study in proprietary schools to show it is comparable to testing.

9. EXPAND BASES FOR LOAN DISCHARGE AND REQUIRE REIMBURSEMENT FROM SCHOOL OR LENDER OR ALLOW STUDENTS TO SEEK REMEDIES DIRECTLY FROM SCHOOL AND LENDER

Students could play a role in program integrity if they had tools to do so. Currently, however, students may only have their student loans canceled (discharged) by the Department of Education in very narrow circumstances, such as the school's false certification of the student's ability to benefit, the school's failure to properly return title IV money, or the school's closure. The student's burden to prove the false certification discharge is very difficult, given that the Department (in some cases) and the school have the needed records, which the student does not have. Additionally, the Department has been very limited in agreeing to cancellation for groups of students, even if there is a judgment finding the false certification applied to an entire group of students, or if the Department has similar claims from students in its files evidencing the alleged false certification by the same school. Additionally, to be effective in stopping bad actors, the Department needs to be aggressive in recovering money from schools that have falsely certified eligibility. Sometimes, of course, the Department's failure to collect is because the school has closed, without funds to repay the loan.

The other traditional remedy for fraud and abuse, a civil action, is not readily available. It is not allowed under current Federal law. Employees who have witnessed false claims for Federal money by the school may sue and recover a share of the money paid in the judgment. Students, however, have no right to sue under the Higher Education Act. They may be able to assert claims under State law. But even there, they are often thwarted because the school requires arbitration in which the students' ability to discover needed facts is limited, rather than allowing a lawsuit.

In addition to the limits on these means of redress by students, claims students do pursue successfully are generally not publicly known. Arbitration proceedings are generally private, not public, like courts. Schools often require students' confidentiality to settle a claim and often also prohibit the student from discussing their grievance with others. Sometimes such confidentiality provisions seem to prevent the student even from contacting government agencies about the issue. Typically, evidence of wrongdoing in private arbitrations or actions that settle is hidden away, not available to the Department, accrediting agencies or law enforcement agencies.

These limits on redress and on public information about settlements of disputes both artificially depress Congress' and the public's awareness of problems, and prevent students from playing a larger role in program integrity. Congress should examine these limitations to increase the part students play in program integrity. In particular, notice of settlements should be provided to the Department and law enforcement agencies, and evidence developed that points to violations of the Higher Education Act should be required to be made available to the Department and law enforcement agencies.

10. REQUIRE A HIGHER RATIO OF CURRENT ASSETS TO LIABILITIES

One recurring problem is when a school takes in tuition fees in the form of Federal aid, then closes before students can complete their programs. Because the proprietary schools' educational quality often does not measure up to non-profit or public schools, the credits the students have already received are not transferable. Indeed, even when proprietary schools have the opportunity to make their credits transfer, they frequently choose not to do so, forcing the student to continue at the proprietary school or have to start over at another school. Sometimes so-called "teach-outs" are offered at another school, but often they are inadequate or require additional expenditures to complete the program the student has already paid for. Currently, only a 1 to 1 ratio of current assets to liabilities is required under Federal law. A 1 to 1 ratio is, in essence, a penny away from bankruptcy. The ratio is too low. In other businesses, ratios of 2 to 1 are considered appropriate. In California, schools had to have at least a 1.25 to 1 ratio (excluding such intangible assets as good will). The requirement, if enforced, could reduce the number of such closures while still allowing stable schools to flourish.

I have tried to list some of the most salient improvements I believe are needed, based on my experience as a prosecutor. Others with expertise in different aspects of the student financial aid programs may suggest other valuable provisions, so I don't contend the list is necessarily comprehensive. Also, to the extent some changes are made, others may be less (or more) necessary. As a former prosecutor, I find it very frustrating that the main way to address the fraud, abuse and waste currently seems to be by expensive, resource-intensive, time-consuming litigation, including prosecutions. I recognize that implementation of these suggestions would require careful drafting. I am quite willing to cooperate with you and the other members of the committee in drafting provisions so that the incentives can be turned around to operate to reduce the waste in the use of Federal financial aid in the proprietary school sector.

QUESTIONS OF SENATOR COBURN

Question 1. What role do States play—above and beyond the role currently played by the Federal Government—in ensuring the quality and integrity of post-secondary degree programs? Are States best positioned to make qualitative judgments about post-secondary institutions and to police improper behavior?

Answer 1. While States could and should play a larger role, the trend has been in the opposite direction. It appears that more and more States have abdicated their oversight role to accrediting agencies.

Traditionally, the Higher Education Act has depended on the triad of oversight, requiring a school to be accredited by a recognized accrediting agency, to be "legally authorized within [the State in which it operates] to provide a program of education beyond secondary education," and to submit to the provisions of a participation agreement with the Department of Education. Currently, however, proprietary schools and their allies, the accrediting agencies, have successfully lobbied many States to rely on accreditation for most, if not all of their State oversight responsibilities. According to a report from the Western Association of Schools and Colleges provided to negotiated rulemaking participants, three States have no State agency or oversight over schools participating in the Federal student assistance programs (Alaska, Arizona and Montana). Another approximately 26 States turn over some, or all of their State functions to accrediting agencies. Some of these States exempt particular classes of accredited schools (such as schools operating before a certain date, e.g., 2006 or for 10 years. Other States exempt from State oversight schools accredited by particular accreditors or classes of accreditors. Others have minimum oversight over accredited schools. Still others even rely on accreditors to insure compliance with consumer protection laws. Oklahoma, for example, exempts all accredited degree-granting schools from State oversight. Memorandum by Kessenick, Gamma & Free, dated January 20, 2010.

The Department of Education recently proposed a regulation that would require States to undertake at least some of the responsibilities contemplated by law, but apparently under pressure from some schools and accrediting agencies, failed to fully address the statutory requirements for State oversight. Current law requires the State agency to notify the Department of Education promptly of any fraud or substantial violation of the Higher Education Act, but the proposed rule does not require the State to have any mechanism by which it would be likely to notice such conduct.

The Department has never had sufficient resources to adequately police the fraud and abuse in the proprietary sector. In my experience, local or State agencies are in a much better position to learn about problems early. As discussed above, accrediting agencies are not designed to fulfill this role. The Department's proposed regulation needs to be strengthened or the law needs to be revised to make clear that schools are not eligible if the State agency in the State in which the school operates relies on accrediting agencies for its essential functions. State agencies must themselves approve schools, monitor their compliance with provisions of the Higher Education Act or with State provisions that are as strong, or stronger than the Higher Education Act, and act to revoke authorization of schools that are not in compliance.

Question 2. Do non-profit and public colleges and universities use the Federal student aid programs to suit their business models? Are for-profit colleges the only sector of higher education that capitalize on the Federal student aid programs?

Answer 2. How different types of schools address the Federal student aid programs in their business models is not something on which I have expertise, so it is a topic best addressed to others. What we do know is that for-profit schools, although ostensibly actors in a market economy, as a sector, are much more highly dependent on the subsidies of Federal student financial aid than other sectors. For example, even if one looks at just independent students taking 4-year programs at public, non-profit, and for-profit schools, the percentage of borrowers varies dramatically. In the publics and non-profits, 24 percent to 31 percent of students have no Federal loans, but at the for-profits, only 4 percent do not have Federal loans.

Question 3. Does it concern you that, as a country, we have created a student aid system that has helped fuel tuition costs? According to the National Center for Public Policy and Higher Education, from 1982 to 2007, tuition and fees increased 439 percent while median family income rose 147 percent. Does the overall framework work in your mind, or has the government created a system that helps drive up tuition and that invites waste, fraud and abuse into all sectors of higher education?

Answer 3. I do not have sufficient information to respond. I do not know if Federal financial aid has kept pace with, lagged behind, or exceeded increased tuition costs, so I don't know if it could be said to be fueling the increases in tuition, or if it is a factor, how significant that factor may be. I do not know how much of the increase in tuition may be due for example, to large increases in fees in one sector, rather than across the board. I do not know what portion of that increase is due to increased costs, such as the need for more expensive technology, e.g., in allied health programs. And I do not know if the difference between the cost of tuition and family income is due to policies that caused tuition to rise excessively, or to policies that caused median income to be depressed excessively.

It is a worthy topic, given the importance of widespread education in a democracy and in the competitive world economy, and one I am very interested in learning more about, but others may be more able to respond than I.

Question 4. What responsibility do post-secondary students, as adult consumers, have in taking their futures into their own hands and researching their post-secondary education and training options?

Answer 4. How much responsibility post-secondary students can have in researching their training options depends on a number of factors, several of which I identify here.

First, about half of the population functions at the below basic or basic literacy level. According to the National Adult Literacy Surveys, about a quarter of the population (depending on the type of task) tests below basic, meaning, for example, they cannot carry out such low level functions as entering background information on an application for social security, identifying the gross pay for the year on a pay stub, or calculating the weekly salary based on the hourly wage. Another approximately 25 percent (depending on the type of task) of the population tests basic, which means, for example, they cannot tell from a bus schedule how long one will have to wait to catch a bus, write a short letter to explain an error in a credit card bill, or summarize the work experience needed for an advertised job.[10] A full 87 percent of those surveyed, even those with intermediate level literacy skills, could not contrast financial information presented in a table about differences among credit cards. If those who are attracted to for-profit schools are similar to the population at large, about half of them may not be capable of undertaking meaningful research on their education options.

Second, even for a sophisticated person, finding out the quality of a for-profit school can be difficult, if not impossible. As I explained in my testimony, there are no standard, reliable, transparent statistics on such important matters as the record of the school's graduates in obtaining employment in the field, the salaries obtained, or the success of graduates on licensing exams. Most of the pertinent information, such as employment rates, lifetime default rates, or salary potential are either not available at all, not readily available, or not reliable. In the case about which I testified, for example, the documents the school was required by law to prepare and provide students consistently contained inflated statements of employment and salaries after graduation.

Similarly, at the hearing, even Senators expressed their confusion about the kind of accreditation needed. A school may be nationally accredited (meaning its students can get Federal financial aid), but the school may not have programmatic accreditation for a particular specialty it offers. The programmatic accreditation may not be something required by the State, but may be what most employers would require. Or a school may represent that it has programmatic accreditation, but the organization giving that accreditation is not the one recognized by most professionals in the field. It is not necessarily that easy for a person with little prior knowledge of the field to figure out that the program a school offers in a particular field will not actually prepare one to work in that field.

Third, schools are not like used car dealers. People may be on guard for sales tricks when looking for a used car. People generally are unlikely to suspect that an "admission advisor" or "financial aid advisor" is really a salesperson, not someone looking after the student's best interest.

These examples illustrate why placing the burden of program integrity on the students' ability to research their training options is unlikely to safeguard the Federal aid dollars. Nevertheless, there are some things that can be done to enlist students in efforts to prevent fraud, abuse and waste.

REQUIRE CANCELLATION PERIODS AND PRO-RATA REFUNDS, AND PROHIBIT CONTRACTUAL OBLIGATION OR PAYMENT BEYOND ONE TERM OR FOUR MONTHS

Each of these suggestions has in common that it offers a measure of self-help to students who may find themselves in one of the "bad actor" schools, and that it has been used in one or more States to curb abuses, but without preventing good schools from flourishing.

In California, the State law for 19 years required proprietary schools to provide a full refund (except for a modest registration fee) to any student who canceled the program within the first 5 class days. That way, there was a chance the student would discover if the equipment or facilities were lacking, or if teachers were untrained or had no practical experience before the student had spent thousands of dollars on a worthless education. Other States prevent the school from keeping even a registration fee if the student cancels on or before the first day of class. While bad actor schools become adept at giving a good first impression, some students may discover the problems in this initial period.

For 19 years, California required proprietary schools to provide a full pro-rata refund throughout the program. That requirement reduced the churn from schools constantly admitting new students and ignoring students' needs once they passed an arbitrary percentage (which varies by school) of the course, after which students were no longer entitled to any refund. Oregon has used a similar concept, prohibiting schools from collecting from students or obligating students for more than one term or four months. Again, students under this system might lose some money on a bad school, but when they realize that things are not as represented, they are free to leave, without being obligated for many months more. Without such a policy, students report that the school responds to their complaints by saying, the student already owes all the money, so there is no point to quitting out of dissatisfaction with the program.

I appreciate this opportunity to address your questions. I am quite willing to cooperate with you and the other members of the committee in drafting provisions so

[10] National Assessment of Adult Literacy performed by National Center for Education Statistics for the U.S. Department of Education in 1992 and 2003.

that the incentives can be turned around to operate to reduce the waste in the use of Federal financial aid in the proprietary school sector.

DEVRY INC.,
DOWNERS GROVE, IL 60515–5799,
July 15, 2010.

Hon. TOM HARKIN, *Chairman,*
Committee on Health, Education, Labor, and Pensions,
428 Dirksen Senate Office Building,
Washington, DC 20510.

Hon. MICHAEL B. ENZI, *Ranking Member,*
Committee on Health, Education, Labor, and Pensions,
835 Hart Senate Office Building,
Washington, DC 20510.

DEAR CHAIRMAN HARKIN AND RANKING MEMBER ENZI: Thank you once again for the opportunity to testify before the Senate Committee on Health, Education, Labor, and Pensions hearing on "Emerging Risk?: An Overview of the Federal Investment in For-Profit Education." DeVry has a long history serving our Nation's educational needs and it was an honor to share my experience in the sector with you and the other honorable members of the committee.

Please find enclosed the written responses to questions that you and other members of the committee had regarding my testimony. This material will also be e-mailed, per your instructions, to the appropriate committee staff. With your consent, we request 1 additional week to complete our response to Chairman Harkin's question 4(d) concerning Apollo College and Western Career College, so that we can obtain the relevant data. Additionally, relative to Chairman Harkin's question 6(b), should the committee require more information, we are happy to discuss how to provide such detail with you or your staff. Please contact me directly at (630) 515–3146 or at stparrot@devry.edu.

President Obama has set some ambitious goals before the higher education community and the work that you and the committee are doing will be critical to the future of our Nation.

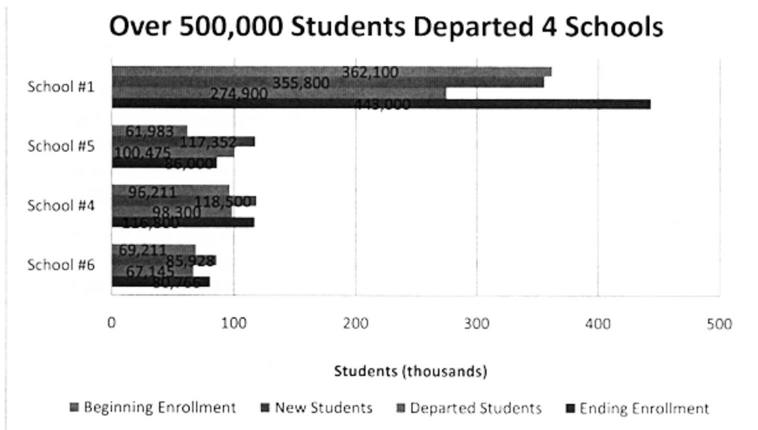
Sincerely,

SHARON THOMAS PARROTT,
Senior Vice President,
Government and Regulatory Affairs,
Chief Compliance Officer.

RESPONSE TO QUESTIONS OF SENATOR HARKIN, SENATOR ENZI, SENATOR DODD, SENATOR CASEY, SENATOR HAGAN, SENATOR ALEXANDER, AND SENATOR COBURN BY SHARON THOMAS PARROTT

QUESTIONS OF SENATOR HARKIN

During the course of your testimony you volunteered that the Department of Education tracks student retention from one September to the next, i.e. that schools must report the number of the students enrolled in one September, and the following September must report how many of those remain enrolled, have graduated or completed a program, and how many have dropped out. You suggested that this data set accurately captures the number of students who withdraw from for-profit colleges like DeVry and would be able to explain what is happening to the students indicated in green on the chart below:



Source: School 1, School 4, School 5, School 6 FY2009 annual filings with the Securities Exchange Commission. Departed students are calculated by adding beginning enrollment to new students and subtracting ending enrollment.

Question 1. Isn't it correct that, contrary to your testimony, all students who have attended another post-secondary institution are excluded from this data set?

Answer 1. The Integrated Post-Secondary Education Data System (IPEDS) retention rate is the percentage of first-time, bachelor-seeking students in the previous fall semester who are enrolled in the current fall semester.

The IPEDS retention rate does indeed exclude those who have attended another post-secondary institution as well as those seeking a degree other than a bachelor's.

For further discussion of IPEDS retention rates, please see my response to Question 5.

My testimony was in reference to the undergraduate withdrawal rate furnished to compliance auditors as part of the annual title IV audit required by the Department of Education for DeVry University and Chamberlain College of Nursing. The rate is calculated as the percentage of students enrolled at the start of the fall semester that had not graduated and were not enrolled the end of the following spring semester. It encompasses all undergraduate students, not just those who were first-time-to-college.

For Apollo College and Western Career College, the rate is calculated as the percentage of those enrolled between July 1 and June 30 who withdrew for the remainder of the year.

The withdrawal rates provided as part of the fiscal year 2009 title IV audit are as follows:

- Apollo College: 12–17 percent (across locations).
- Chamberlain College of Nursing: 14 percent.
- DeVry University: 21 percent.
- Western Career College: 19.9 percent.

Although it is not reported as such, the inverse of the withdrawal rate can be thought of as a retention measure. That is, fall through spring retention rates for DeVry University and Chamberlain College of Nursing were 79 percent and 86 percent, respectively. For Apollo College and Western Career College the retention rates were 83–88 percent (across locations) and 79 percent, respectively.

Question 2. Isn't it also true that any student who enrolls in a school outside the September window is not captured by this data set unless they remain at the school until the following September?

Answer 2. No. Please see my response to Question 1. I referenced the title IV audit withdrawal rate, which is a fall through spring measure. You may have been referring to the IPEDS retention rate, which is a fall-to-fall measure and is discussed in my response to Question 5.

Question 3. Is it correct to say that large numbers of students attending schools owned and operated by DeVry enroll throughout the year, not just in the Fall?

Answer 3. Yes. Unlike typical traditional institutions that admit students once a year in the fall, DeVry University and Chamberlain College of Nursing accept new students in summer, fall and spring semesters throughout the year. Apollo College and Western Career College accept students on a rolling calendar throughout the year as well.

An increasing number of all college students are "non-traditional," including older, working adult students. Multiple start dates, along with evening/weekend programs and online courses are some of the ways we try to serve this growing need.

Question 4a. For the year beginning September 1, 2008 and ending September 1, 2009 could you please provide the following information:

Although the September to September academic year in your question is a typical period for traditional institutions, it is not reflective of our academic calendar. DeVry's institutions operate on an academic calendar beginning July 1 and ending June 30.

Answer 4a. The total number of students enrolled in the six schools operated by DeVry on September 1, 2008.

Four of DeVry's schools have undergraduate enrollment and provide the proper context for the retention rates in the 2008–2009 IPEDs Fall Enrollment Survey.

Ross University and DeVry University's Keller Graduate School of Management are not included because neither admits students at the undergraduate level.

Below are the fall 2008 undergraduate enrollments as reported in the 2008–2009 IPEDS Fall Enrollment Survey.

- Apollo College: 6,884.
- Chamberlain College of Nursing: 3,203.
- DeVry University (U.S.): 48,166.
- Western Career College: 6,001.

For Chamberlain College of Nursing and DeVry University, the fall 2008 semester began on October 27, 2008. The official census date was November 24, 2008. For Apollo College and Western Career College, the official fall reporting period began August 1, 2008 and ended October 31, 2008.

Question 4b. The number of those enrolled who were not first-time students?

Answer 4b. Although the September to September academic year in your question is a typical period for traditional institutions, it is not reflective of our academic calendar. DeVry's institutions operate on an academic calendar beginning July 1 and ending June 30.

Of those undergraduate students counted in 4(a), the number who were not first-time degree/certificate-seeking is provided below, as reported in the 2008–2009 IPEDS Fall Enrollment Survey.

- Apollo College: 5,038.
- Chamberlain College of Nursing: 3,158.
- DeVry University (U.S.): 39,560.
- Western Career College: 4,485.

Question 4c. The number of students who enrolled between October 1, 2008 and August 1, 2009?

Answer 4c. Although the September to September academic year in your question is a typical period for traditional institutions, it is not reflective of our academic calendar. DeVry's institutions operate on an academic calendar beginning July 1 and ending June 30.

Below are the 2008–2009 undergraduate head counts for each institution, as reported in the 2009–2010 IPEDS 12-month Enrollment Survey.

- Apollo College: 12,818.
- Chamberlain College of Nursing: 5,701.
- DeVry University: 85,931.
- Western Career College: 9,601.

Question 4d. The number of students who enrolled between October 1, 2008 and August 1, 2009 but were no longer enrolled in September 2009?

Answer 4d. Of those undergraduate students counted in 4(c), the number who had not graduated and were not enrolled in summer 2009 is provided below for DeVry University and Chamberlain College of Nursing. Because the requested data is not publicly available and has not been compiled in this manner before, our team is still conducting the analysis for Apollo College and Western Career College. We would like to provide the most accurate information possible, so with your permission we will follow up with the data for these two schools with our submission next week.

- Apollo College: *data forthcoming*.
- Chamberlain College of Nursing: 1,436.
- DeVry University (U.S.): 33,745.

• Western Career College: *data forthcoming*.

Question 5. With regard to the DeVry College of New York, the school reported that for the September 2007 to September 2008 period the retention rate for that particular campus was 30 percent for full-time students and 14 percent for part-time students. Do you believe that these numbers are consistent with the retention rates of schools described in the chart above? Why or why not? Do you believe the numbers for DeVry New York accurately reflect the retention rate of DeVry overall, and if not why not?

Answer 5. In New York, DeVry University operates as DeVry College of New York. The full-time retention rate for this location was 30 percent for full-time students and 14 percent for part-time students, as reported in the 2008–2009 IPEDS Fall Enrollment Survey. In other words, 30 percent of first-time, bachelor-seeking students attending full-time at DeVry College of New York in fall 2007 were enrolled in fall 2008 (14 percent for those attending first-time, part-time in fall 2007).

To provide context, the first-time bachelor-seeking cohort for the IPEDS retention rate covered only 54 percent of all new undergraduate students enrolled at DeVry College of New York in fall 2007.

But setting aside the limitations of the IPEDS measure, the retention rate for DeVry College of New York is not representative of DeVry University as a whole. Nationwide the first-time, full-time, bachelor-seeking student retention rate was 44 percent and the first-time, part-time bachelor-seeking student retention rate was 31 percent. Other examples include DeVry University-Ohio with a 50 percent first-time full-time bachelor-seeking student retention rate and a 31 percent first-time, part-time, bachelor-seeking student retention rate and DeVry University-California with a 53 percent first-time, full-time bachelor-seeking student retention rate and a 30 percent first-time, part-time bachelor-seeking student retention rate.

The first-time bachelor-seeking context applicable to DeVry College of New York is also applicable to DeVry University-California and DeVry University-Ohio. The first-time bachelor-seeking retention rate cohort covered only 47 percent of new undergraduates in fall 2007 at DeVry University-California and only 41 percent at DeVry University-Ohio. For DeVry University nationwide the first-time bachelor-seeking retention rate cohort accounted for only 38 percent of new undergraduates in fall 2007.

Additionally, I believe that in measuring colleges and universities, it is important to compare like-institutions based on student profile and risk factors.

I am unable to speak to the retention rates in the provided chart because the institutions are not identified and do not appear to include any DeVry schools. Additionally, it is difficult for me to decipher a retention rate from the chart without knowing factors such as the length of the programs at the schools. If, for example, those schools have programs of less than 1 year, then the "departed students" may be graduates, rather than drop-outs. In any case, I would be very happy to meet with you or your staff to provide more information and analysis—it may be easier to clarify these questions in a meeting.

Question 6. In your testimony you stated that DeVry spends 14 percent of revenues on advertising. Could you please also state, in similar percentage terms, how much DeVry spends on the following: (a) Direct recruiting (salary and costs of admissions representatives and managers); (b) Marketing and Outreach Total including breakdown of:

i. Advertising (television, radio, print, billboard and Internet)
ii. Telemarketing
iii. Direct mail
iv. Other promotional efforts

As stated in our Form 10–K filing (Attachment 1), DeVry Inc. advertising expense for the fiscal year ended June 30, 2009 was $179.4 million as compared to $669.7 million spent on educational services. Advertising expense represented 12.3 percent of total revenues of $1,461.5 million versus 45.8 percent for educational services. Advertising expense represents about 14.6 percent and educational services represent about 54.6 percent of total operating costs and expenses of $1,226.6 million.

[Editor's Note: Attachment 1 referred to may be found at: *http://www.annualreports.com/HostedData/AnnualReports/PDFarchive/dv2009.pdf*.]

DeVry spent about $670 million on educational services, approximately 370 percent of the amount spent on advertising.

As a publicly held organization DeVry discloses the financial information noted above in regular filing with the Securities and Exchange Commission (SEC). DeVry does not publicly disclose more specific details concerning operating costs for competitive reasons. If the committee requires additional details, we would be happy to discuss how to provide them to you and your staff.

Question 7. In your testimony you stated that the 54 percent of revenues that DeVry spends on education services is slightly higher than the amount spent by not-for-profit or public schools. Please explain your methodology for this assertion and provide concrete examples to support it?

Answer 7. DeVry's educational services are 54.6 percent of total costs. Please allow me to clarify one point of potential confusion. At the hearing you mentioned that DeVry's educational services accounted for 54 percent of costs rather than revenues, while in this question you mentioned it as a percent of revenues. The available comparisons are in terms of percent of costs, and I will proceed on that basis.

The benchmark for the comparison was from table 362 from the Department of Education's 2009 Digest of Education Statistics (Attachment 2). The report on expenditures of public institutions shows the following percentage distribution on instructional costs:

Table 1.—Calculation of Total Instructional Costs (as a percent of Total Costs); Selected data from table 362

	Total Instructional Cost [In percent]	Academic Support [In percent]	Student Services [In percent]	Institutional Support [In percent]	Total [In percent]
2003–2004	27.68	6.64	4.60	8.22	47.13
2004–2005	27.65	6.61	4.65	8.09	47.00
2005–2006	27.80	6.75	4.69	8.18	47.43
2006–2007	28.13	6.83	4.76	8.36	48.08

Table 364 and 366 (Attachments 3 and 4) of the same digest provides information for private not-for-profit/independent colleges and private for-profit/private sectors schools respectively. Weighting for enrollment, the expenditure allocation for education services for all publics and not-for-profits averages less than 52 percent.

Question 8. Information reported to the U.S. Department of Education is that the University of Northern Iowa, with 2008 enrollment of 12,098, spent 37.5 percent of its core expenses on instruction and 11.4 percent on academic support. DeVry University-Illinois with enrollment of 19,417 reported 18.3 percent spending on instruction and 82.7 percent on academic support. Do you believe that DeVry typically spends more on instruction than public universities such as the University of Northern Iowa or comparable schools?

Answer 8. DeVry University's instructional expenditures are typically similar to comparable 4-year public institutions. DeVry University-Illinois is not representative of DeVry University overall. The other 25 DeVry University locations had higher percentages more in line with like-type public institutions in the States in which we operate. The average was 30 percent. One reason DeVry University-Illinois appears to be lower is that online students and online expenses nationwide are reported at that IPEDS location.

DeVry University's instructional expenditures as a percentage of core expenditures are similar to comparable 4-year public institutions. Table Two provides examples for seven of DeVry University's IPEDS locations.

Table 2

Institution	Instruction as a percentage of core expenses, 2007–2008 [In percent]
DeVry College of New York	29
Stony Brook University	34
DeVry University-California	30
California State University-Fresno	35
DeVry University-Florida	28
Florida Agricultural and Mechanical University	30
DeVry University-Georgia	29
Georgia Institute of Technology-Main Campus	23
DeVry University-Illinois	18

Table 2—Continued

Institution	Instruction as a percentage of core expenses, 2007–2008 [In percent]
Northeastern Illinois University	31
DeVry University-Pennsylvania	32
Cheyney University of Pennsylvania	27
DeVry University-Texas	32
University of Houston	28

Question 9a. You stated in your testimony that from the 1970s to date DeVry has averaged 90 percent employment of graduates who actively participated in a job search with DeVry in educationally related jobs. You agreed as well to produce that data as well as the methodology used in calculating those percentages. In addition to the underlying data and methodology, please answer the following to aid in our understanding of the data:

Answer 9a. The graduate employment data provided during my testimony was for the years 1975 through 2008, the last calendar year for which the statistics were audited. The following terms are used in calculating and disclosing graduate employment statistics for DeVry University:

Graduates eligible for career assistance: All graduates other than those continuing their education, foreign graduates legally ineligible to work in the United States or Canada, our own employees, national servicemen and women, foreign residents, graduates we are unable to locate and those ineligible for career assistance because of extreme circumstances. Extreme circumstances include death, suffering from a serious illness or medical condition, maternity/paternity leave, participation in religious mission work, incarceration or community service that prevent a graduate from obtaining employment during this time period.

We offer lifetime employment assistance and thus those graduates who are not included in this count due to current circumstances can take full advantage when/if they are able to resume their employment search.

Graduates who actively pursued employment: Net number of graduates eligible for career assistance who meet the requirements in (c) below.

Education-related employment: Requires the graduate to be using degree-related skills and knowledge they attained while attending DeVry University.

Employment rate: Percent of graduates who actively pursued and obtained employment and those who were already employed in education-related careers within 180 days or 26 weeks of graduation.

EMPLOYMENT RATE CALCULATION FROM 1975 THROUGH 2008

Total Graduates: 237,957.
Graduates eligible for career assistance: 210,569.
Graduates who actively pursued employment: 186,788.
Graduates employed in education-related positions: 168,596.
Employment Rate: 90.3 percent.

Question 9b. What does it mean that a graduate "actively participated in a job search?"

Answer 9b. Graduates who are actively engaged in a job search prior to graduation through 26 weeks following graduation, as well as those graduates who are already employed in an education-related field at the time of graduation. Active participation includes resume preparation; willingness to interview; contacting and following up on employment opportunities and bi-weekly contact with their assigned Career Services Advisor.

Question 9c. How many graduates each year participated in such a search?

Answer 9c. The average percent of eligible graduates who pursued employment for the period from 1975 through 2008 was 88.7 percent (186,788/210,569).

Question 9d. What are the categories of programs from which they graduated?

Answer 9d. DeVry University offers undergraduate programs in business, technology and health care administration. For 2009 graduates earned degrees in the following programs:

Associate Degree Programs

Accounting
Electroneurodiagnostic Technology
Electronics and Computer Technology
Health Information Technology
Network Systems Administration
Web Graphic Design

Bachelor Degree Programs

Biomedical Engineering Technology
Business Administration
Computer Engineering Technology
Computer Information Systems
Electronics Engineering Technology
Game and Simulation Programming
Technical Management
Network and Communications Mgt

Question 9e. For each category please describe all jobs that are considered "educationally related" for purposes of calculating the employment rates?

Answer 9e. Please see the term definitions above. "Educationally related" is determined from position responsibilities as reported by the graduate. Career Services staff determines whether the position responsibilities are related to the graduate degree program based on their knowledge of the educational outcomes of each program.

QUESTIONS OF SENATOR ENZI

Question 1. How does DeVry help students manage their financial aid needs, and ensure that they understand their loans?

Answer 1. I believe that DeVry schools provide high levels of customer service to our students in order to help them achieve their educational and career goals.

Prospective students are assigned a student finance advisor immediately after completing their enrollment agreements. Student finance advisors explain financing options; provide technical assistance with completing financial aid and scholarship applications; and provide information about the various loan programs, their terms and repayment responsibilities. The student finance advisor-student relationship is maintained for the duration of the student's studies. The advisor is responsible for helping the student with their financial planning including providing debt counseling to minimize overall debt levels. Advisors also administer our $16-million institutional scholarship programs, helping to target these programs to students with financial need.

At the hearing we were asked for best-practices that could be employed to help meet U.S. educational goals. We believe that among the best practices being developed and implemented with our student finance advisors is the financial review that is conducted with students before they begin their studies. During this review process, the advisor determines each student's financial aid eligibility and projects out the expected costs and method of financing with the student. The student is able to look at the cost of attending part-time versus full-time as well as determine the long-term ramifications of that decision. They are able to estimate the amount of debt they may have to take on to complete their studies and make decisions of how much to pay now versus how much they want to pay later (in repayment of student loans). This process not only gives the prospective student a long-range look toward graduation, it advances their financial literacy level which is helpful in other areas of their life.

Question 2. What does DeVry do to hold itself accountable?

Answer 2. DeVry is guided by its values, which include maintaining a high standard of performance and integrity in all areas of operation. These values are articulated in DeVry's Code of Business Conduct and Ethics and detail key policies and procedures that help our employees to legally and ethically perform the tasks associated with their employment.

Like other higher education institutions—whether public or private—DeVry is governed by a wide variety of Federal and State regulations. Our colleges and universities are accredited by U.S. Department of Education approved accrediting bodies.

In the United States, DeVry's institutions are regulated by the U.S. Department of Education and State regulatory bodies.

As a publicly held organization, DeVry discloses financial and a host of qualitative information in regular filings with the Security and Exchange Commission (SEC). This creates a level of public disclosure and transparency not generally found among traditional higher education institutions.

DeVry holds itself accountable through clear internal operating procedures, internal quality controls, regular and standardized professional staff development, independent outside auditors and internal quality assurances. These compliance measures include dedicated regulatory and compliance personnel, standardized policies and procedures updated at least annually, extensive training and mentoring that is ongoing, peer review and internal and external audits.

We hold ourselves accountable to the academic outcomes that our students achieve. An example of this is exam results on the nursing licensure examination the NCLEX–RN. Recent graduates of Chamberlain College of Nursing have a first-time NCLEX–RN pass rate between 90–98 percent depending on the campus location.

Perhaps the ultimate measure of accountability is success in the career marketplace. As I detail in Chairman Harkin's question No. 9, 90.3 percent of eligible graduates active in the job market were employed during the period from 1975 through 2008.

We appreciate this question as we believe that all schools, regardless of sector, must be held accountable for the quality of their academic outcomes.

Question 3. What does DeVry do to help its students find employment?

Answer 3. Local and national advisory boards and faculty with experience and expertise in their profession help DeVry University to develop an academic curriculum that is relevant to workforce requirements. We regularly review entire programs of study to ensure that course materials and objectives continue to be rigorous and relevant. We provide capstone courses in each program to prepare students to enter the workforce through a team-based experience working in a real-world environment on assignments requiring students to apply their knowledge and skills. The final semesters of study include career development courses that reinforce presentation skills, self-assessment, goal-setting and career planning.

Our 150 career service professionals develop and maintain relationships with employers (some of these relationships have persisted for decades) to keep abreast of employment needs and opportunities and share this information with staff. Career fairs are held on campuses throughout the year. Our career services professionals coordinate on-site interviews for employers. DeVry also maintains an interactive employer database that contains information on thousands of North American companies. This database is available to students and alumni and provides real-time access to current job leads, details on career events and other career-related information.

QUESTIONS OF SENATOR DODD

Question 1. Do you see any potential problem that schools sit on the same accreditation boards that provide the official legitimacy for their schools to operate? Do you see this as a potential conflict of interest? How can we ensure that this does not become a conflict of interest?

Answer 1. As explained by the Council for Higher Education Accreditation (CHEA®) in its booklet, The Value of Accreditation (Attachment 5), "Accreditation in the United States is a means to assure and improve higher education quality, assisting institutions and programs using a set of standards developed by peers . . . Accreditation assures that a neutral, external party (the accrediting organization) has reviewed the quality of education provided and has found it to be satisfactory, based upon appropriate peer expertise." The participation of affiliated school representatives on accreditation boards is an integral part of the peer review method.

In the United States, accreditation operates as a democratic process. Members of the community volunteer to represent and lead. Because there is potential for a conflict of interest in any form of democracy, there are safeguards in place to ensure a process of integrity. It is standard practice among accrediting agencies that persons with potential conflicts of interest recuse themselves from voting on institution-specific decisions related to their own colleges or universities. At the Accrediting Council for Independent Colleges and Schools, for example, members of the Board of Directors who have a conflict of interest, or even the appearance of a conflict of interest, recuse themselves from voting and physically leave the room during the voting process for such institutions.

The U.S. Department of Education operates with appropriate oversight to prevent conflicts of interest in the accreditation community. According to The Criteria for Recognition of an Accrediting Agency for post-secondary students (Attachment 6), the basic eligibility requirements mandate: "At least one member of the agency's decisionmaking body is a representative of the public, and at least one-seventh of that body consists of representatives of the public" (602.14 b–2); and, "The agency has established and implemented guidelines for each member of the decisionmaking body to avoid conflicts of interest in making decisions" (602.14 b–3). The Criteria also require, "Clear and effective controls against conflicts of interest, or the appearance of conflicts of interest, by the agency's (i) Board members; (ii) Commissioners; (iii) Evaluation team members; (iv) Consultants; (v) Administrative staff; and (vi) Other agency representatives" (602.15 a–6). Additionally, it is required that any appeals panel, "is subject to the conflict of interest policy" (602.25 f–1–ii). These regulations demonstrate a thorough and effective policy throughout the accreditation community.

[Editor's Note: Attachment 6 referred to may be found at: *http://www2.ed.gov/print/admins/finaid/accred/accreditation.html*.]

To incorporate another safeguard for the integrity of the peer review process, the Council of Regional Accrediting Commissions, with assistance from CHEA®, instituted a policy on interregional accreditation. As explained in the policy manual of the Higher Learning Commission (Attachment 7), "To preserve the values and practices of peer review and regional accreditation, the Commission's evaluation of affiliated institutions that deliver education at a physical site(s) in another region(s) within the United States or its territories will be undertaken with the participation of the host regional accrediting commission(s). This will include the joint (home/host) evaluation of the off-campus sites in a host region against the accreditation standards of that region." This policy is evaluated every 3 years, and ensures procedural respect among the regional, institutional accreditors.

[Editor's Note: Attachment 7 referred to may be found at: http://ncahlc.org/policy/commission-policies.html. Click on *policy book* **in first paragraph for updated pdf.]**

When the Higher Learning Commission of the North Central Association of Colleges and Schools (HLC) conducted its comprehensive review of DeVry University in 2002, the process required an assessment of five campuses outside of its own region. The following accrediting agencies were invited to participate in the review process: the Middle States Commission on Higher Education, the Northwest Commission on Colleges and Universities, the Southern Association of Colleges and Schools Commission on Colleges, and the Western Association of Schools and Colleges Accrediting Commission for Senior Colleges and Universities. All four agencies participated in the process with HLC at their affiliate campus locations and submitted their reviews of the campuses with the HLC reviewer team report.

Question 2. We agree that with the increased need for and importance of distance learning, coupled with President Obama's goal of 8.2 million additional graduates in 2020, for-profit schools serve a definite need in our education sector. As someone in the industry, what steps do you suggest we take in order to ensure that Federal funding is not being used to raise stocks for bad actors, and instead that these important funds are directed to the good actors in the business?

Answer 2. We appreciate this question as we believe that all schools, regardless of sector, must be held accountable for the quality of their academic outcomes. The stewardship of student aid funds is applicable to all sectors of higher education. Government oversight and control is critically important to ensuring the integrity of the government financial aid system. Because private-sector schools serve a definite need in our education system, it is critical that we do not "throw the baby out with the bath water."

We offer the following steps to ensure program integrity.

- Recognizing that over time, and with the best of intentions, we have built a complex and often conflicting set of rules and regulations—and that it is time for a regulatory reform package. We agree with the need for higher education regulation.

  Key regulatory reform package elements should be:
  - Measure of program completion rate.
  - Measure of graduate employment.
  - Measure of cohort default rate, adjusted for socio-demographic factors. Thus schools that serve students of lesser means should not be unfairly punished for doing so.
  - Measure of pass rate on standard exams, where they exist (e.g. nursing).
- Robust disclosure regimen (Attachment 8).

We must also be careful to be specific when referring to "bad actors." To paraphrase Secretary Duncan, we need to hold bad actors accountable, regardless of sector. Further, we must have data and not only media anecdotes. Just last week we learned that one widely reported issue raised to the Secretary of Education was reported by someone paid by Wall Street short-sellers.

I would also like to note that student aid funds are not directed to schools but rather to students themselves. As you noted at the hearing, just like the GI Bill, the financial aid goes to the student and the student then votes with their feet—they can use their aid at any accredited school. This model of education funding has contributed to the strength of America's system of higher education, by promoting competition and accountability.

QUESTIONS OF SENATOR CASEY

Question 1. The President has set the goal of the United States leading the world in college graduates by the year 2020. In your opinion, what is the role of for-profit colleges in trying to achieve this goal?

Private-sector colleges and universities play a critical role in reaching President Obama's 2020 education goals. An analysis by the National Center on Higher Education Management Systems (Attachment 9) estimates that the United States will need to produce an additional 8.2 million post-secondary degrees to meet these goals. With cuts in State higher education budgets forcing caps in enrollment and program cuts, it is impossible to imagine meeting the President's goals without the *capacity* being built by private-sector schools.

Public and independent schools have been shrinking enrollment for quite some time, even before the current budget issues forced State governments to cut higher education funding. Public-sector and independent colleges, for the last 10 years for which the data are available (1997–2007), have actually *shrunk* enrollments of bachelor's degree seeking students age 25+ by 50,000 students while the private sector has *grown* by 400,000 students (Attachment 10). And with public schools like the California State University System projecting enrollment cuts of 40,000 students, the Nation is clearly facing even greater capacity challenges (Attachment 11).

From a capacity building perspective, the private sector is key in reaching the President's 2020 goals. The private sector is also critical as the growth we need in college attainment will come largely from "non-traditional" students. This includes working moms, first-in-family college-goers, recent immigrants and career changers. They represent 73 percent of current college and university attendees and are the new majority in higher education (Attachment 12).

[Editor's Note: Attachment 12 referred to may be found at: *http://nces.ed.gov/pubs2002/2002012.pdf*.]

Private-sector schools have proven to be especially nimble and innovative in meeting the needs of non-traditional students. Online learning was first developed and implemented by private-sector schools and is key to reaching this critical demographic. Public-sector and independent schools have gradually taken it up as well. Other innovative approaches have also been critical: flexible schedules, increased academic and career services support, year-round classes so that students can earn their Bachelor's degree in 3 years or their Associate's degree in 18 months, and closely following employment trends to develop courses that are quickly adaptable to the workforce. Innovations such as these, often led by private-sector colleges, are necessary to serve these "non-traditional" students.

But the private sector cannot make up all the additional degrees required to regain our leadership in college attainment. All sectors of higher education are needed and must work together. We need to share and embrace new technological approaches, adopt simple, long-overdue administrative changes like making transfers of credit hours between institutions easier, and relentlessly focus on the student and their desired career and learning outcomes. The United States has a system of higher education that is the envy of the world, due to its diversity of student *choice* among public-sector, private-sector, and independent colleges and universities.

Question 2. What are for-profit schools currently required to report to the Department of Education around graduation rates and placement rates? How are placement rates tracked?

Answer 2. Graduation rates are reported to the Department of Education only for first-time, full-time students. These are done annually through the Integrated Post-Secondary Education Data System (IPEDS). "Placement" or graduate employment rates are not reported to the Department. There is no placement rate calculation methodology defined for regionally accredited colleges and universities. The Accrediting Council for Independent Colleges and Schools (ACICS), a national accreditor, which accredits Apollo College (as of June 30, 2010 renamed Carrington College) define a methodology for calculating placements and requires all schools to annually report placement data.

Placement data reported to ACICS includes:

- Number of graduates.
- Number placed in field of study.
- Number placed in related field of study.
- Number placed out of field of study.
- Number of graduates not available for placement due to pregnancy, death, other health-related situations, continuing education, military service or because they are not eligible for placement in the United States.
- Number of graduates not working.

Many private-sector colleges and universities publicly report graduate employment data. To provide the information students need to be fully informed consumers, we should hold all institutions, regardless of sector, to the same standards of accountability.

Question 3. What, if any, statutory or regulatory changes should be made to strengthen the rules governing for-profit colleges? Are the penalties strong enough to hold these institutions accountable?

Answer 3. We appreciate this question as we believe that all schools, regardless of sector, must be held accountable for the quality of their academic outcomes. The stewardship of student aid funds is also applicable to all sectors of higher education. Government oversight and control is critically important to ensuring the integrity of the government financial aid system. Because private-sector schools serve a definite need in our education system, it is critical that we do not "throw the baby out with the bath water" or potentially proliferate the problem by limiting oversight to one sector over another.

We offer the following steps to ensure program integrity.

- Recognizing that over time, and with the best of intentions, we have built a complex and often conflicting set of rules and regulations—and that it is time for a regulatory reform package. We agree with the need for regulation of higher education.

  Key regulatory reform package elements should be:

  - Measure of program completion rate.
  - Measure of graduate employment.
  - Measure of cohort default rate, adjusted for socio-demographic factors. Thus schools that serve students of lesser means should not be unfairly punished for doing so.
  - Measure of pass rate on standard exams, where they exist (e.g., nursing).
- Robust disclosure regimen (Attachment 8).

We must also be careful to be specific when referring to "bad actors." To paraphrase Secretary Duncan, we need to hold bad actors accountable, regardless of sector. Further, we must have data and not only media anecdotes. Just last week we learned that one widely reported issue raised to the Secretary of Education was reported by someone paid by Wall Street short-sellers.

I would also like to note that student aid funds are not directed to schools but rather to students themselves. As you noted at the hearing, just like the GI Bill, the financial aid goes to the student and the student then votes with their feet—they can use their aid at any accredited school. This model of education funding has contributed to the strength of America's system of higher education, by promoting competition and accountability.

With the proper training, evaluation and enforcement, the Department of Education has very strong powers to hold institutions accountable. Please see Attachment 8 for further information. DeVry has been actively engaged throughout this year with both the Secretary of Education's Office and the Congress in an attempt to define problems and develop solutions targeted to these problems. We look forward to continuing to help analyze and test potential solutions to identified problems.

Currently, there is a broad array of penalties available to the Secretary for assessing in the event of noncompliance with Federal regulations. These include limitation, suspension or termination of an institution's title IV eligibility. Limitations can also include requiring the posting of letters of credit or payment of fines.

QUESTIONS OF SENATOR HAGAN

Question 1. Over the last several years Congress has had to make some very difficult choices regarding the spending of Federal dollars, one of which was to devote a greater amount of Federal resources to the Pell Grant program over other priorities with just as much need.

As you well know, Federal title IV loan and grant dollars now comprise close to 90 percent of total revenues at many for-profit institutions. In fact, Mr. Eisman's research states that the amount of Federal dollars flowing to the for-profit industry is over $21 billion.

In a time in which budgets are very tight I strongly believe that it is critical for Congress to take a look at each and every dollar that we spend.

The bulk of your revenue comes from Federal loans and grants but there is no assurance that you are providing the type of high quality education leading to a lucrative job that these students deserve and are paying for. This must change. Does DeVry, or the industry in general, have any accountability mechanisms in place that can demonstrate to us that you are making the most effective use of the Federal dollars from student financial aid that you currently receive? If not, what steps are you willing to take to make that change?

Answer 1. DeVry is guided by its values, which include maintaining a high standard of performance and integrity in all areas of operation. These values are articulated in DeVry's Code of Business Conduct and Ethics and detail key policies and procedures that help our employees to legally and ethically perform the tasks associated with their employment.

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We hold ourselves accountable to the academic outcomes our students achieve. An example of this is exam results on the nursing licensure examination, the NCLEX–RN. Recent graduates of Chamberlain College of Nursing have a first-time NCLEX–RN pass rate between 90–98 percent depending on the campus location.

The ultimate accountability measurement for career-oriented education is whether our graduates, either entering or re-entering the workforce or maintaining their job continue to be employed and whether that employer continues to hire our graduates for future positions. We have been measuring this for more than 35 years. Aside from employment rate, DeVry is measured much like every other institution. We report graduation, retention and withdrawal rates to the Department of Education, as well as cost and demographic information. The Department calculates cohort default and financial aid participation rates and makes all this information available to consumers on its College Navigator Web site as well as to financial aid applicants at the time of application. While this may be useful information, its disaggregation from the enrollment process limits its effectiveness.

Subsequent to the conclusion of the recent negotiated rulemaking, we proposed (with two other schools) a robust disclosure process as an alternative to the Gainful Employment proposal discussed in the rulemaking sessions. This disclosure would provide specific program-level cost, indebtedness and repayment information that we think should be readily available for every student. This disclosure would help assure students are making informed decisions and using taxpayer assistance to best meet their educational objectives.

Since Mr. Eisman's testimony is cited, I would also like to note that Mr. Eisman is a Wall Street short-seller who has bet millions on seeing shares of publicly held colleges decline. He is not merely predicting what will happen, he and other short-sellers have conducted a carefully orchestrated campaign to *make* it happen. Just last week we learned that one widely reported issue that was raised with the Secretary of Education was reported to him by someone paid by Wall Street short-sellers.

Question 2. I read and I hear stories of students like Yasmine Issa—our witness here today—a motivated and hard working student simply ready and willing to work hard to accomplish her goals. But for many students, their goals have slowly diminished as the clock ticks and they are unable to find a job.

I also understand that there are many stories of students who have attended a for-profit institution and have gone on to successful careers and are able to manage their student loan debt.

When you hear stories like Ms. Issa's, how do you defend the institution you work on behalf of and its counterparts?

Answer 2. As you know, Ms. Issa did not attend one of our schools. Our students attend DeVry's schools to earn a degree or certificate that allows them to begin or advance in their careers and we work every day to ensure they leave our programs with the tools they need to succeed.

We hold ourselves accountable to the academic outcomes our students achieve. An example of this is exam results on the nursing licensure examination, the NCLEX–RN. Recent graduates of Chamberlain College of Nursing have a first-time NCLEX–RN pass rate of between 90–98 percent depending on the campus location.

As I detail in Chairman Harkin's question No. 9, 90.3 percent of eligible graduates active in the job market were employed during the period from 1975 through 2008.

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As you point out, there are many successful graduates. The Arizona Republic ran a story last year on Bonnie Brown, a local DeVry student. She is a stay-at-home mother of three who wanted to get a degree in biomedical engineering technology and get back into the workforce. She graduated in 2009 in only 3 years, taking classes year round and now has a job at Phoenix Children's Hospital.

Ms. Brown received a quality education, in a field with growing capacity needs, on a schedule that fit her busy life. In the not so distant past, students like Ms. Brown might not have had the chance to go back and get a degree. But today, because of changes in technology, in how we offer classes to students, and our flexible, competitive higher education system, she can.

Question 3. At the end of fiscal year 2010, there are estimated to be over $700 billion in outstanding, federally backed student loans. Taxpayers are backing almost all of those loans.

I realize that this question can apply equally to non-profit institutions as well, but since we're talking about the for-profit industry today, could any of the witnesses tell me what specific, quantitative measurements we have across the industry to tell us what the taxpayers are getting for all that money? What sort of industry-wide performance measures are available to help us better understand the performance of institutions that survive on the largess of the taxpayer?

Answer 3. The National Center for Education Statistics (NCES) collects a wide variety of student performance and cost information from schools each year. They provide 1-year snapshots of performance as well as longitudinal studies. For instance, from the 1996 Beginning Post-Secondary Students Longitudinal Study (Attachment 13), 55.6 percent of all students starting at a for-profit, 2-year school received a degree or certificate by 2001 (the last year data was collected for this study) versus 36.7 percent for students starting at public, 2-year schools. Additionally, 52.8

percent of students starting at for-profit, 4-year schools had received a degree by 2001 versus 60.5 percent at public schools.

We recognize that taxpayers make a significant investment in higher education. According to the National Center for Education Statistics (NCES) 2008–2009 data (Table 3), Federal, State, county and/or municipal governments contributed the following average tax subsidy to public-sector institutions per full-time student equivalent:

Public institutions: $13,920.
Independent institutions: $7,546.
Private sector institutions: $1,001.

For-profit or private-sector institutions provide higher education that is worthwhile and far more cost efficient investment of taxpayer subsidies. Institutions like ours also help offset taxpayer subsidies to public institutions by returning to the government a significant portion of our earnings as Federal, State, county and/or municipal taxes. As an example, DeVry will pay over $100M in tax this year. In the latest tax year.

NATIONAL CENTER FOR EDUCATIONAL STATISTICS

Table A–49–1.—Total and Per Student Revenue of Public, Private Not-For-Profit, and Private for-Profit Degree-Granting Post-Secondary Institutions, by Source of Funds: Selected Academic Years, 1999–2000 Through 2007–2008

Control of institution and source of funds	Total 2007–2008 revenue [In millions]	Percentage distribution of total revenue				Revenue per FTE student[1] [In constant 2008–2009 dollars]			
		1999–2000	2003–2004	2006–2007	2007–2008	1999–2000	2003–2004	2006–2007	2007–2008
Public institutions									
Total	**$273,109**	**—**	**100.0**	**100.0**	**100.0**	**—**	**$27,702**	**$29,715**	**$28,432**
Operating revenues	151,079	—	58.0	55.4	55.3	—	16,063	16,461	15,728
Tuition and fees[2]	48,070	—	15.8	16.7	17.6	—	4,388	4,954	5,004
Grants and contracts	42,054	—	19.2	17.3	15.4	—	5,312	5,153	4,378
Federal (excludes FDSL[3])	25,523	—	13.0	11.5	9.3	—	3,605	3,406	2,657
State	7,832	—	3.0	2.8	2.9	—	822	842	815
Local	8,699	—	3.2	3.0	3.2	—	885	905	906
Auxiliary enterprises	20,488	—	7.7	7.6	7.5	—	2,121	2,257	2,133
Hospitals	25,183	—	8.8	8.4	9.2	—	2,445	2,498	2,622
Other operating revenues	15,284	—	6.5	5.4	5.6	—	1,797	1,599	1,591
Nonoperating revenues	105,254	—	36.6	38.5	38.5	—	10,137	11,434	10,958
Federal appropriations	1,850	—	0.7	0.7	0.7	—	200	211	193
State appropriations	68,375	—	24.3	23.5	25.0	—	6,727	6,993	7,118
Local appropriations	9,319	—	3.5	3.3	3.4	—	962	976	970
Government grants	12,109	—	1.6	1.6	4.4	—	450	474	1,261
Gifts	6,070	—	1.9	2.1	2.2	—	523	618	632
Investment income	5,279	—	3.2	5.8	1.9	—	894	1,725	550
Other nonoperating revenues	2,251	—	1.4	1.5	0.8	—	381	437	234
Other revenues	16,776	—	5.4	6.1	6.1	—	1,502	1,819	1,746
Private not-for-profit institutions									
Total	**139,251**	**100.0**	**100.0**	**100.0**	**100.0**	**60,242**	**55,273**	**64,760**	**46,511**
Tuition and fees	50,736	24.6	28.7	26.0	36.4	14,809	15,856	16,860	16,946

Table A–49–1.—Total and Per Student Revenue of Public, Private Not-For-Profit, and Private for-Profit Degree-Granting Post-Secondary Institutions, by Source of Funds: Selected Academic Years, 1999–2000 Through 2007–2008—Continued

Control of institution and source of funds	Total 2007–2008 revenue [In millions]	Percentage distribution of total revenue				Revenue per FTE student[1] [In constant 2008–2009 dollars]			
		1999–2000	2003–2004	2006–2007	2007–2008	1999–2000	2003–2004	2006–2007	2007–2008
Federal Government[4]	20,205	10.1	13.7	11.1	14.5	6,089	7,550	7,170	6,749
State governments	1,857	0.9	1.1	0.9	1.3	558	599	578	620
Local governments	528	0.5	0.4	0.3	0.4	290	200	191	177
Private gifts, grants, and contracts[5]	20,992	13.7	11.8	11.1	15.1	8,235	6,526	7,170	7,012
Investment return	6,447	31.3	23.0	30.7	4.6	18,860	12,723	19,852	2,153
Educational activities	4,850	2.4	2.5	2.3	3.5	1,431	1,355	1,458	1,620
Auxiliary enterprises	12,929	6.9	7.7	6.7	9.3	4,154	4,252	4,365	4,318
Hospitals	13,300	6.0	7.2	6.9	9.6	3,600	3,977	4,487	4,442
Other	7,407	3.7	4.0	4.1	5.3	2,217	2,236	2,630	2,474
Private for-profit institutions									
Total	**16,084**	**100.0**	**100.0**	**100.0**	**100.0**	**14,248**	**16,027**	**15,579**	**15,825**
Tuition and fees	14,030	86.1	89.5	88.2	87.2	12,267	14,350	13,742	13,804
Federal Government	960	4.6	4.4	5.2	6.0	656	709	809	944
State and local governments	68	1.7	0.7	0.5	0.4	237	105	78	67
Private gifts, grants, and contracts	5	#	0.1	#	#	7	13	4	5
Investment return	65	0.4	0.2	0.3	0.4	61	30	54	64
Educational activities	290	1.6	1.5	1.8	1.8	233	248	274	285
Auxiliary enterprises	352	3.6	2.7	2.2	2.2	516	426	348	346
Other	315	1.9	0.9	1.7	2.0	271	146	270	310

— = Not available.
= Rounds to zero.
[1] Full-time-equivalent (FTE) enrollment includes full-time students plus the full-time equivalent of the part-time students.
[2] Net of allowances and discounts.
[3] Federal Direct Student Loans.
[4] Includes independent operations.
[5] Includes contracts and contributions from affiliated entities.
Note: For more information on the Integrated Post-Secondary Education Data System (IPEDS), see **supplemental note 3**.
Source: U.S. Department of Education, National Center for Education Statistics, 1999–2000 through 2007–2008 Integrated Post-Secondary Education Data System, ''Fall Enrollment Survey'' (IPEDS–EF: 99) and Spring 2001 through Spring 2009.

Question 4. Some say that the for-profit sector is highly regulated with oversight from the U.S. Department of Education, State licensure agencies and accrediting bodies. Others may disagree, citing that much more needs to be done.

That said, what are your thoughts on how can we better align the goals of each of these agencies so that everyone is demanding the highest quality outcomes for every institution?

Answer 4. Without question, the for-profit or private-sector is highly regulated. In addition to the named entities, the sector is regulated by other Federal and State agencies, including for some, the SEC. The question is whether the regulation adequately ensures that institutions are effectively delivering a quality product and service that meets the student and taxpayer's expectations. This is not a question just for the private sector, but for all of higher education. In calling for an increase of 8.2 million college graduates, the President is not just telling us to throw open our doors and add more seats. He is telling us we need to first offer programs and services that meet the needs of the un-enrolled, and second, do a better job at seeing them through to graduation.

The Triad, consisting of the Department of Education, State licensing entities and accrediting bodies, needs to work effectively and cohesively to enable this expansion while at the same time being able to better measure individual institutional performance towards those goals. While none of these entities operates in a silo, they each bring different strengths and responsibilities to the table. They each must be accountable to increasing the level of execution of their own responsibilities. For example, if it is the State's role to ensure that institutions are responsive to student consumers, then they need to have a rapid response process that assures complaints are not only resolved for an individual student, but that the institution "learns" from the resolution and will advance its product and services as a result. The Department currently has the authority to spearhead this effort within its existing enforcement authority. It also has the authority and resources to gather and report on meaningful qualitative results.

Similarly, the Federal Negotiated Rulemaking process provides a meaningful opportunity for community input and serves as an integral part of engaging not only the Triad but the higher education community at-large. As members of this community, DeVry staff has served as Federal trainers, chairmen of Department of Education (USED) task forces, on the National Academy Foundation student aid research projects, on USED focus groups to simplify student aid and the steering committee of NCES's National Post-Secondary Education Cooperative which promotes better data for better decisionmaking. We have also participated as members of associations including the American Council of Education, The College Board, and the National Association of Student Financial Aid Administrators. Most recently DeVry staff served as negotiators in negotiated rulemaking and has provided recommended regulatory language to USED aimed at strengthening student disclosures. DeVry has and will continue to engage with Members of Congress on ways to improve educational opportunity and success for all students.

Question 5. Many of you in your testimony mention the "90/10 rule", the provision that requires proprietary institutions of higher education to have at least 10 percent of the institution's revenues from sources that are not derived from funds provided through Federal financial aid.

Is there a way to more accurately track the percentage of title IV dollars that schools receive?

Answer 5. Both the U.S. Department of Education and schools can accurately track the receipt of total title IV dollars. However, the allocation of those dollars towards an institution's 90/10 calculation is problematic. Currently, the Department requires that all title IV funds be counted first towards revenue. Many tuition-restricted scholarships, State grants and other 3d party assistance are excluded from the 90/10 calculation. Title IV loans are often used to pay for non-institutional charges. These loans, which most schools discourage use of, must be counted towards the 90 percent limit even though they were never used to pay institutional charges. We have three recommendations related to this concern:

1. Tuition-restricted funding should always count first (prior to title IV assistance) towards the calculation of the 90/10 rate, and;
2. Schools should have the flexibility in their awarding policies to restrict borrowing for non-institutional costs.
3. To provide incentives to institutions to help reduce student debt by providing need-based institutional grants and scholarships. These should be allowed to count toward the 10 percent requirement.

Question 4. As you know, the purpose of this hearing is for all of us to get a better sense of how well the for-profit education industry is serving students. We know that there are good actors as well as bad actors in the for-profit education industry.

For those of us who want to ensure that anyone who has the drive and desire to get a high-quality education is able to do so, how do you suggest we work together to better identify those schools that are getting the job done and those that aren't?

Answer 4. As I stated in my written testimony:

> "Please make no mistake, when an institution does something wrong and in conflict with the best interests of students, they must be held accountable. However, I submit that rather than limiting oversight to one sector over another or one 'actor' over the 'other', policymakers consider that there are 'good acts' and 'bad acts' of which no sector is immune."

I have a few suggestions for working together to identify schools in all sectors that are getting the job done and those that are not.

Given the enormity of the task facing our country, educating 8.2 million additional post-secondary graduates by 2020, we must count on every single part of our higher education system to deliver high-quality opportunities to an exponentially diverse and growing student population.

Historically, American colleges and universities have not done the best job educating and graduating at-risk students. However, given the challenges we face, this has to change.

In measuring how colleges and universities heed this challenge, it is important to compare like institutions based on student profile and risk factors. There are a myriad of ways to measure like institutions but still hold the whole of higher education accountable for student outcomes. In fact DeVry is currently working with a few schools at the request of a Member of Congress to come up with objective, risk-adjusted performance standards that can be used to measure institutional effectiveness.

I am also familiar with other examples; a notable one is found in the State of Texas. The Texas Higher Education Coordinating Board (THECB), the State authorizing body for degree-granting institutions, has a robust higher education accountability system that seeks to group like institutions based on a series of qualitative and quantitative measures (Attachment 14).

[Editor's Note: Attachment 14 referred to may be found at: *http://www.txhighereddata.org/Interactive/Accountability/History.cfm*.]

We are engaged with the Gates Foundation, Lumina Foundation and the Pell institute, along with other institutions of higher education, to determine ways of measuring success based on risk-based factors. We encourage the Congress to work with the broader community and the Department of Education to address this challenge.

QUESTIONS OF SENATOR ALEXANDER

Question 1. What types of programs or assistance do you provide to your part-time or transfer students to help ensure that they actually graduate or complete their program? Are there better ways we could track that information so that we can have a better understanding of college completion across all sectors.

Answer 1. DeVry provides high levels of support and service to all our students, whether part-time, transfer or first-time full-time students. Each of our incoming students is assigned a student success coach who is responsible for facilitating their successful transition into and through the first year of college. The coach works with his/her students to establish their degree completion plan and assists with course selection. Throughout the students tenure coaches stay in contact with their students providing proactive advisement and support. Student attendance is monitored and the coaches act as liaisons with other University departments on their students' behalf.

In student finance, as discussed in an earlier question, each student is assigned an advisor who works with him/her setting up a personalized financing plan, including debt counseling and scholarship search options.

Finally, all graduating students are assigned a career services advisor to assist students with career planning and their job search. Even after a student graduates and begins their job, career services assistance is available as a life-long service to DeVry alumni.

With respect to tracking college completion, currently the Department relies on schools to track transfer rates and does not require tracking of part-time and transfer-in students for reporting graduation rates. This omits a huge and increasing number of students from performance monitoring. We believe that the Department has the ability to monitor transferring students as well as continue longitudinal studies on part-time enrollments. They should be encouraged to do so. All full-time students should be included in a school's calculation.

Question 2. What reporting requirements do you think we should ask of institutions of higher education to report on to the Department of Education and the public to ensure the quality of the school? What should we be measuring instead of the boxes and boxes we currently gather?

Answer 2. I believe that all schools, regardless of sector, must be held accountable for the quality of their academic outcomes.

A robust regulatory reform package should include:

- Measure of program completion rate.
- Measure of graduate employment.
- Measure of cohort default rate, adjusted for socio-demographic factors. Thus schools that serve students of lesser means should not be unfairly punished for doing so.
- Measure of pass rate on standard exams, where they exist (e.g. nursing).

• Robust disclosure regimen (Attachment 8)

Question 3. Could you tell us a little more about how the DeVry University Advantage Academy was created? Does DeVry intend to expand the Advantage Academy beyond Chicago and Columbus, OH?

Answer 3. The DeVry University Advantage Academy (DUAA) was created at the urging of Mayor Richard Daley, who asked his then-CEO of the Chicago Public Schools (CPS), Arne Duncan, to work with DeVry to develop an innovative approach to help increase high school graduation rates and college attainment among CPS high school students. Together, DeVry and CPS developed a dual enrollment program that allowed high school students, beginning in their junior year, to take college courses in addition to their regular classes so that they could graduate with both their high school diploma and an Associate's degree. Launched in 2004, it has graduated four classes, and the 6th class matriculated in 2009.

DUAA is geared not toward the super high achieving student, or the students with serious study and attendance issues. Students at either extreme of the educational spectrum typically get extra resources and attention. DUAA was created to help the "regular kids", students who come to school every day and want to learn and be challenged. And it has been very successful: The Chicago campus has a 92 percent graduation rate and the Columbus, OH, campus, launched in 2006 in partnership with Columbus City Schools, has a 100 percent graduation rate.

Building off these successes, DeVry will partner with America's Promise Alliance, the foundation created by General Colin Powell, to expand the DUAA program to another 10 cities over the next 3 years. America's Promise is on a 10-year campaign called "Grad Nation" to mobilize our country as never before to reverse the dropout crisis and enable our children to be prepared for success in college, work and life. DeVry and America's Promise will work together to identify cities where a DeVry Advantage Academy can help improve high school graduation rates and work with the local school district in each city to develop a program that meets the needs of local students.

DUAA is an innovative and successful approach that clearly works. DeVry would be honored to meet with members of the committee to talk more about the program and discuss how the DUAA approach could be applied in their home State school districts.

QUESTIONS OF SENATOR COBURN

Question 1. Can you please discuss the potential economic impact of the Gainful Employment regulations on the country?

Answer 1. This past spring, Professor Jon Guryan, an economist at the University of Chicago, conducted a comprehensive analysis of the potential impact of the Gainful Employment regulations as they were proposed during negotiated rulemaking (Attachment 15). His analysis came from data collected from 17 institutions on more than 640,000 students enrolled in more than 10,000 separate programs of study. He concluded that more than 18 percent of all programs of study at for-profit institutions would fail to meet the proposed Gainful Employment requirements. Furthermore, he concluded that more than 33 percent of all students enrolled in for-profit institutions were enrolled in programs that would be disqualified. The total estimated impact would be to displace more than 900,000 current students and 360,000 new students each year. The economic impact on the country would be tremendous. There is no capacity within public schools, and building this capacity would be time-consuming and beyond the ability of strained State budgets. If you conservatively assumed that 40 percent of the 900,000 currently affected students would have graduated and 70 percent of these would have entered the workforce with $30,000 a year jobs, the aggregate lost earnings would be $7.6 billion—in the first year alone.

[Editor's Note: Attachment 15 referred to may be found at: *http://nwcareercolleges.org/documents/CRA-GainfulEmployment-full.pdf*.]

Question 2. What actions does your company take when it encounters so-called "bad" actors that ultimately stigmatize this industry?

Answer 2. DeVry is a values-driven organization whose purpose is to empower our students to achieve their educational and career goals. We have a long history within higher education of working with industry partners to increase our accountability to students and taxpayers. We are helping to lead an initiative today to develop a Statement of Ethical Principles for our industry. When we hear about "bad acts"—whether intentional or the result of error or misunderstanding—we use them as teaching opportunities, to maintain our values and controls and to mitigate against these acts within our organization.

Question 3. The testimony provided by Mr. Steven Eisman, Portfolio Manager of FrontPoint Financial Services Fund, discusses the amount that some for-profit colleges provision for losses on their respective institutional loans, sometimes in excess of 50 percent. In fiscal year 2008 and fiscal year 2009, how much (and what percentage of loans) did DeVry maintain for losses against its institutional loans? Please provide your perspective on why companies maintain considerable reserves for losses anticipated on their own loans?

Answer 3. Students incur debt to DeVry Inc. through either a tuition payment plan, which is to be repaid through the course of the term of studies and is similar to those offered by most institutions of higher education, or an institutional loan program which has a repayment period schedule of 5 years or longer depending on the program, beyond completion of their studies. The institutional loan program is designed to partially offset the impact of the credit crisis and loss of private loan availability. The amount of total indebtedness assumed by students through the institutional loan program comprises less than 2 percent of total DeVry Inc. revenue. The loss reserve established for the institutional loan program is based on the default experience on remaining tuition payment balances at the time a student withdraws or graduates. The total reserve for bad debt on institutional loans at the end of fiscal year 2009 was $6.3 million, representing 35.6 percent of the total balance owed to DeVry Inc. Since we had no institutional loan programs in fiscal year 2008, we had no reserve for bad debt. DeVry's perspective on why we maintain this level of reserve is that we tend to be conservative in our accounting. Nobody likes surprises, including us, and our reserve reflects that. It could be that the actual losses we experience are less than this reserve amount.

Since Mr. Eisman's testimony is cited, I would also like to note that Mr. Eisman is a Wall Street short-seller who has bet billions on seeing shares of publicly held colleges decline. He is not merely predicting that will happen, he and other short-sellers have conducted a carefully orchestrated campaign to *make* it happen. Just last week we learned that one widely reported issue that was raised with the Secretary of Education was reported to him by someone paid by Wall Street short-sellers.

Question 4. In your testimony, you state that DeVry's net income margin for fiscal year 2009 was 11 percent, and that substantially all of these revenues were retained to re-invest in the future. You call this your students' endowment and note that during the last fiscal year DeVry has invested more than $100 million in equipment and facilities, upgraded classrooms, the re-development of curricula, expanded academic offerings and additional staff. Can you expand on the importance of re-investing in your students? How does the amount that DeVry re-invests in students compare to the amount of endowment earnings that traditional schools re-invest in their student populations?

Answer 4. Last year's earnings become the resource for this year's capital investments. Our capital investments for fiscal year 2010 will be about $140 million. This represents 85 percent of our net earnings of $165 million from fiscal year 2009. These investments include increasing our enrollment capacity to meet increased student interest in our programs, such as building two new nursing campuses, one in Chicago and another across the river in Arlington. It also includes adding new computers across our network of more than 120 campuses to support business and technology programs, purchasing patient simulators that can cost $100,000 each for our nursing and medical programs and implementing new technology systems designed to improve classroom learning and student services. In addition to funding capital expenditures, we funded more than $16 million in scholarships this past year. This re-investing in our students is an integral part of our strategic plan. Investing in academic quality leads to better student outcomes. When students achieve better outcomes, it creates more interest in our programs. And this enables us to support further investment into the quality of our academic programs.

Although many universities rely on their endowment (instead of retained earnings) to fund capital investments, the difference in allocating funding is great. A traditional university's endowment consists of two components; the original endowment (or gift) received from individual donors and a component that is represented by the investment growth of that original endowment. CommonFund and National Association of College and University Business Officers (NACUBO) studies (Attachment 16) show that most schools target a spend rate for their endowments of 4.5–5.0 percent, which is typically less than the growth rate of the original endowment. This difference ensures a stabilization of the endowment to be used for generations in the future. Unlike an endowment, DeVry does not "lock up" its retained earnings and only use the income from those earnings to generate resources for capital investing and scholarships. We consistently use a substantial portion of prior year earnings to fund the current year's initiatives. But, similar to the stability that an endowment helps ensure for public and non-profit independent colleges, DeVry's long-term stability is secured with its direct reinvestment into initiatives that support student access and success.

Question 5. In your testimony you discuss the amount of counseling and financial literacy training that your students must go through before being allowed to receive loan disbursements. Would you say your students, consequently, are fully informed of the debt obligations and the contract to which they are entering?

Answer 5. Students are fully informed of the estimated total cost of their program, how tuition charges are calculated each term and the cost of attendance used for financial aid calculations. Students are also fully informed of the terms and conditions for any loan program from which they may choose to borrow. Subsequent to the conclusion of the recent negotiated rulemaking, we, in addition to two other schools, proposed a robust disclosure process as an alternative to the Gainful Employment proposal discussed in the rulemaking sessions. This disclosure would provide specific program-level cost, indebtedness and repayment information that we think should be readily available for every student. Notwithstanding any rulemaking outcome, we will implement this process during the coming academic year at all of our schools.

Question 6. Do community colleges, public and nonprofit colleges and universities face capacity issues that limit their growth, and by consequence, limit opportunity for students—especially the most disadvantaged?

Answer 6. There are capacity issues facing community colleges, public and nonprofit (independent) colleges that can limit their growth and, by extension, limit opportunities for disadvantaged students. Considering that 80 percent of all college attendees are enrolled in public-sector schools (both community colleges and 4-year schools), capacity issues have a significant impact on educational opportunity. This capacity issue translates into many of these schools becoming more selective in determining who is enrolled. As a result, the most impacted are those who have traditionally been left out of higher education and are the ones most in need of college access.

Publicly funded schools continue to face severe budget cuts that result in capping, and sometimes cutting, enrollment; eliminating courses; increasing class sizes; and laying off faculty and administrative staff. It is well known that the University of California System has proposed cutting 40,000 enrollments (Attachment 11). Arizona State University recently considered eliminating their Clinical Lab Science bachelor's degree program ("*Closure of clinical lab sciences programs threatens healthcare industry*." Healthcare Finance News. May 13, 2009, *http://www.healthcarefinancenews.com/news/closure-clinical-lab-sciences-programs-threatens-healthcare-industry*). DeVry University Phoenix just opened one.

An example of one capacity issue facing community colleges, public and nonprofit colleges and universities is our Nation's projected nursing shortage. It is estimated that more than 1 million new and replacement nurses will be needed by 2020. Yet nearly 99,000 qualified students are turned away each year from U.S. nursing schools due to a lack of capacity. Thousands of people want to be nurses but can't because there are not enough seats in nursing schools.

Reductions in administrative staff and resources do affect those that get in the door at traditional schools. Disadvantaged and non-traditional students often have less experience with higher education. They may be the first in their family to go to college, or are older students already in the workforce, with children or other dependents. These non-traditional students typically need much more in the way of support services, such as financial aid counselors, career counselors, admissions advisors, and academic support. Reductions in these administrative resources further limit opportunities for success for disadvantaged students.

Many publicly funded schools have also been slow to adopt some of the innovations that the private sector has developed or embraced. Online courses were pioneered by the private sector, but many traditional schools have been slow to embrace this technology. Non-traditional students, many of whom work full time, often find online courses to be the only option flexible enough to allow them to pursue a degree. Offering classes year-round is also critical to meeting the needs of non-traditional students. They want to graduate quickly and need a full offering of courses over the summer.

Northern Virginia Community College President Robert Templin sums up the public education response to the current economic challenge in saying, "A significant portion of higher education is hunkered down, trying to wait out the storm. We've taken the approach that while things will get better, they will never get back to the way they were. We're going to have to find new ways to do our work." (Attachment 17).

ATTACHMENT 2

Table 362. Expenditures of public degree-granting institutions, by purpose of expenditure and type of institution: 2003-04 through 2006-07

		Operating expenditures									
			Instruction								
Type of institution and year	Total expenditures	Total	Total	Salaries and wages	Research	Public service	Academic support	Student services	Institutional support	Operation and maintenance of plant	Depreciation
1	2	3	4	5	6	7	8	9	10	11	12
	In thousands of current dollars										
All institutions											
2003-04	$205,068,500	$198,321,711	$56,767,947	$39,431,881	$21,408,497	$8,981,907	$13,613,774	$9,426,787	$16,849,813	$12,611,040	$8,999,651
2004-05	215,794,343	208,488,447	59,656,806	41,026,819	22,550,836	9,481,391	14,258,857	10,042,243	17,454,934	13,578,182	9,592,800
2005-06	226,549,889	219,061,195	62,988,407	43,202,237	23,056,406	9,746,753	15,299,823	10,634,906	18,528,338	15,117,844	10,071,291
2006-07	238,828,801	230,398,826	67,188,249	45,998,524	23,893,564	10,148,312	16,306,542	11,377,541	19,962,037	15,806,925	10,772,442
4-year											
2003-04	167,654,408	161,575,599	42,287,792	29,290,396	21,394,125	8,293,533	10,904,235	6,062,776	11,691,429	9,469,470	7,586,394
2004-05	177,191,847	170,580,039	44,699,891	30,555,416	22,528,940	8,819,093	11,417,218	6,475,649	12,151,581	10,287,442	8,136,660
2005-06	186,074,213	179,399,853	47,286,043	32,206,726	23,031,885	9,054,397	12,290,114	6,906,675	12,915,660	11,508,008	8,517,539
2006-07	196,121,062	188,683,105	50,755,304	34,541,885	23,875,451	9,455,605	13,151,359	7,430,739	14,046,030	12,031,682	9,140,557
2-year											
2003-04	37,414,092	36,746,112	14,480,155	10,141,485	14,371	688,374	2,709,539	3,364,011	5,158,384	3,141,570	1,413,258
2004-05	38,602,497	37,908,408	14,956,915	10,471,403	21,896	662,298	2,841,639	3,566,594	5,303,353	3,290,740	1,456,140
2005-06	40,475,676	39,661,343	15,702,364	10,995,511	24,520	692,356	3,009,709	3,728,231	5,612,677	3,609,836	1,553,752
2006-07	42,707,739	41,715,721	16,432,945	11,456,639	18,113	692,707	3,155,183	3,946,803	5,916,007	3,775,243	1,631,885
	Percentage distribution										
All institutions											
2003-04	100.00	96.71	27.68	19.23	10.44	4.38	6.64	4.60	8.22	6.15	4.39
2004-05	100.00	96.61	27.65	19.01	10.45	4.39	6.61	4.65	8.09	6.29	4.45
2005-06	100.00	96.69	27.80	19.07	10.18	4.30	6.75	4.69	8.18	6.67	4.45
2006-07	100.00	96.47	28.13	19.26	10.00	4.25	6.83	4.76	8.36	6.62	4.51
4-year											
2003-04	100.00	96.37	25.22	17.47	12.76	4.95	6.50	3.62	6.97	5.65	4.53
2004-05	100.00	96.27	25.23	17.24	12.71	4.98	6.44	3.65	6.86	5.81	4.59
2005-06	100.00	96.41	25.41	17.31	12.38	4.87	6.60	3.71	6.94	6.18	4.58
2006-07	100.00	96.21	25.88	17.61	12.17	4.82	6.71	3.79	7.16	6.13	4.66
2-year											
2003-04	100.00	98.21	38.70	27.11	0.04	1.84	7.24	8.99	13.79	8.40	3.78
2004-05	100.00	98.20	38.75	27.13	0.06	1.72	7.36	9.24	13.74	8.52	3.77
2005-06	100.00	97.99	38.79	27.17	0.06	1.71	7.44	9.21	13.87	8.92	3.84
2006-07	100.00	97.68	38.48	26.83	0.04	1.62	7.39	9.24	13.85	8.84	3.82
	Expenditures per full-time-equivalent student in curre										
All institutions											
2003-04	$22,192	$21,462	$6,143	$4,267	$2,317	$972	$1,473	$1,020	$1,823	$1,365	$974
2004-05	23,084	22,303	6,382	4,389	2,412	1,014	1,525	1,074	1,867	1,453	1,026
2005-06	24,126	23,329	6,708	4,601	2,455	1,038	1,629	1,133	1,973	1,610	1,073
2006-07	25,130	24,243	7,070	4,840	2,514	1,068	1,716	1,197	2,100	1,663	1,134
4-year											
2003-04	30,166	29,072	7,609	5,270	3,849	1,492	1,962	1,091	2,104	1,704	1,365
2004-05	31,413	30,241	7,925	5,417	3,994	1,563	2,024	1,148	2,154	1,824	1,443
2005-06	32,483	31,318	8,255	5,622	4,021	1,581	2,145	1,206	2,255	2,009	1,487
2006-07	33,670	32,393	8,714	5,930	4,099	1,623	2,258	1,276	2,411	2,066	1,569
2-year											
2003-04	10,158	9,977	3,932	2,754	4	187	736	913	1,401	853	384
2004-05	10,412	10,225	4,034	2,824	6	179	766	962	1,430	888	393
2005-06	11,053	10,831	4,288	3,003	7	189	822	1,018	1,533	986	424
2006-07	11,609	11,340	4,467	3,114	5	188	858	1,073	1,608	1,026	444
	Expenditures per full-time-equivalent student in constant 20										
All institutions											
2003-04	$25,246	$24,415	$6,989	$4,854	$2,636	$1,106	$1,676	$1,161	$2,074	$1,553	$1,108
2004-05	25,494	24,631	7,048	4,847	2,664	1,120	1,685	1,186	2,062	1,604	1,133
2005-06	25,667	24,819	7,136	4,895	2,612	1,104	1,733	1,205	2,099	1,713	1,141
2006-07	26,062	25,142	7,332	5,019	2,607	1,107	1,779	1,242	2,178	1,725	1,176
4-year											
2003-04	34,318	33,073	8,656	5,996	4,379	1,698	2,232	1,241	2,393	1,938	1,553
2004-05	34,692	33,398	8,752	5,982	4,411	1,727	2,235	1,268	2,379	2,014	1,593
2005-06	34,558	33,318	8,782	5,981	4,278	1,682	2,283	1,283	2,399	2,137	1,582
2006-07	34,918	33,594	9,037	6,150	4,251	1,683	2,341	1,323	2,501	2,142	1,627
2-year											
2003-04	11,556	11,350	4,473	3,133	4	213	837	1,039	1,593	970	437
2004-05	11,499	11,292	4,455	3,119	7	197	846	1,062	1,580	980	434
2005-06	11,759	11,523	4,562	3,194	7	201	874	1,083	1,631	1,049	451
2006-07	12,039	11,760	4,632	3,230	5	195	889	1,113	1,668	1,064	460

\1\Excludes discounts and allowances.

\2\Constant dollars based on the Consumer Price Index, prepared by the Bureau of Labor Statistics, U.S. Department of Labor, adjusted to a school-year basis.

NOTE: Degree-granting institutions grant associate's or higher degrees and participate in Title IV federal financial aid programs. Includes data for public institutions reporting data according to either the Governmental Accounting Standards Board (GASB) or the Financial Accounting Standards Board (FASB) questionnaire. Detail may not sum to totals because of rounding.

SOURCE: U.S. Department of Education, National Center for Education Statistics, 2003-04 through 2006-07 Integrated Postsecondary Education Data System (IPEDS), Spring 2004 through Spring 2008. (This table was prepared December 2008.)

Scholar-ships and fellow-ships\1\	Auxiliary enterprises	Hospitals	Indepen-dent opera-tions	Other	Nonoperating expenditures: Total	Interest	Other
13	14	15	16	17	18	19	20
$8,172,682	$15,705,951	$18,471,970	$736,799	$6,574,893	$6,746,790	$2,679,502	$4,067,287
8,402,515	16,664,085	20,104,812	658,166	6,042,819	7,305,896	2,989,771	4,316,125
8,616,689	17,314,237	20,689,224	744,028	6,253,250	7,488,694	3,404,166	4,084,528
8,956,265	18,501,797	22,111,404	784,684	4,589,065	8,429,974	3,819,104	4,610,870
5,123,190	13,680,554	18,471,970	711,188	5,898,943	6,078,810	2,240,096	3,838,714
5,453,252	14,593,314	20,104,812	658,166	5,254,019	6,611,808	2,526,222	4,085,586
5,697,202	15,158,273	20,689,224	744,028	5,600,805	6,674,361	2,856,931	3,817,430
6,031,919	16,308,351	22,111,404	784,684	3,560,022	7,437,956	3,129,141	4,308,815
3,049,492	2,025,397	0	25,612	675,949	667,980	439,406	228,574
2,949,262	2,070,771	0	0	788,800	694,089	463,549	230,539
2,919,487	2,155,964	0	0	652,445	814,333	547,234	267,099
2,924,346	2,193,446	0	0	1,029,044	992,018	689,963	302,055
3.99	7.66	9.01	0.36	3.21	3.29	1.31	1.98
3.89	7.72	9.32	0.30	2.80	3.39	1.39	2.00
3.80	7.64	9.13	0.33	2.76	3.31	1.50	1.80
3.75	7.75	9.26	0.33	1.92	3.53	1.60	1.93
3.06	8.16	11.02	0.42	3.52	3.63	1.34	2.29
3.08	8.24	11.35	0.37	2.97	3.73	1.43	2.31
3.06	8.15	11.12	0.40	3.01	3.59	1.54	2.05
3.08	8.32	11.27	0.40	1.82	3.79	1.60	2.20
8.15	5.41	0.00	0.07	1.81	1.79	1.17	0.61
7.64	5.36	0.00	0.00	2.04	1.80	1.20	0.60
7.21	5.33	0.00	0.00	1.61	2.01	1.35	0.66
6.85	5.14	0.00	0.00	2.41	2.32	1.62	0.71
nt dollars							
$884	$1,700	$1,999	$80	$712	$730	$290	$440
899	1,783	2,151	70	646	782	320	462
918	1,844	2,203	79	666	797	363	435
942	1,947	2,327	83	483	887	402	485
922	2,462	3,324	128	1,061	1,094	403	691
967	2,587	3,564	117	931	1,172	448	724
995	2,646	3,612	130	978	1,165	499	666
1,036	2,800	3,796	135	611	1,277	537	740
828	550	0	7	184	181	119	62
796	559	0	0	213	187	125	62
797	589	0	0	178	222	149	73
795	596	0	0	280	270	188	82
07-08 dollars\2\							
$1,006	$1,934	$2,274	$91	$809	$831	$330	$501
993	1,969	2,375	78	714	863	353	510
976	1,962	2,344	84	708	848	386	463
977	2,019	2,413	86	501	920	417	503
1,049	2,800	3,781	146	1,207	1,244	459	786
1,068	2,857	3,936	129	1,029	1,295	495	800
1,058	2,815	3,842	138	1,040	1,240	531	709
1,074	2,904	3,937	140	634	1,324	557	767
942	626	0	8	209	206	136	71
879	617	0	0	235	207	138	69
848	626	0	0	190	237	159	78
824	618	0	0	290	280	195	85

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ATTACHMENT 3

Table 364. Total expenditures of private not-for-profit degree-granting institutions, by purpose and type of institution: 1996-97 through 2006-0

Type of institution and year	Total expenditures, by purpose											
	Total	Instruction	Research	Public service	Academic support	Student services	Institutional support	Auxiliary enterprises\1\	Net grant aid to students\2\	Hospitals	Independent operations	Other
1	2	3	4	5	6	7	8	9	10	11	12	13
	In thousands of current dollars											
All institutions												
1996-97	$67,399,563	$21,126,357	$6,702,520	$1,621,583	$4,942,411	$4,430,241	$8,226,648	$7,079,116	$1,529,456	---	---	$11,741,232
1997-98	69,300,699	23,404,428	7,267,877	1,672,991	5,738,254	4,903,988	9,138,895	7,698,614	1,297,749	$6,395,808	$1,782,095	---
1998-99	75,516,696	25,181,848	7,779,001	1,521,440	6,349,076	5,295,059	9,901,658	8,027,492	1,222,565	7,258,939	2,979,619	---
1999-2000 ..	80,613,037	26,012,599	8,381,926	1,446,958	6,510,951	5,688,499	10,585,850	8,300,021	1,180,882	7,355,110	2,753,679	2,396,563
2000-01	85,625,016	27,607,324	9,025,739	1,473,292	7,368,263	6,117,195	11,434,074	9,010,853	1,176,160	7,255,376	3,134,609	2,022,132
2001-02	92,192,297	29,689,041	10,035,480	1,665,884	7,802,637	6,573,185	12,068,120	9,515,829	1,188,690	7,633,043	3,397,979	2,622,409
2002-03	99,748,076	32,062,218	11,079,532	1,878,380	8,156,688	7,096,223	13,157,744	9,936,478	1,173,845	7,586,208	3,879,736	3,741,024
2003-04	104,317,870	33,909,179	12,039,531	1,972,353	8,759,743	7,544,021	13,951,408	10,508,719	1,101,738	8,374,128	4,222,980	1,934,070
2004-05	110,394,127	36,258,473	12,812,857	2,000,437	9,342,064	8,191,737	14,690,328	10,944,342	1,069,591	9,180,775	4,223,779	1,679,741
2005-06	116,817,913	38,465,058	13,242,343	1,941,519	10,217,274	8,965,704	15,667,101	11,741,258	708,158	9,645,428	4,203,523	2,020,548
2006-07	124,557,725	41,223,483	13,704,450	2,036,588	10,882,028	9,591,334	16,831,353	12,451,087	728,139	10,400,055	4,680,393	2,028,816
4-year												
1996-97	66,668,808	20,922,069	6,701,053	1,616,019	4,902,188	4,294,812	8,095,791	7,011,791	1,502,866	---	---	11,622,219
1997-98	68,677,274	23,164,693	7,267,228	1,669,650	5,704,216	4,817,585	8,988,203	7,621,887	1,276,848	6,395,610	1,771,355	---
1998-99	74,805,484	24,823,398	7,778,900	1,513,641	6,308,251	5,224,455	9,766,020	7,957,265	1,198,516	7,257,021	2,978,017	---
1999-2000 ..	79,699,659	25,744,199	8,376,568	1,438,544	6,476,338	5,590,978	10,398,914	8,228,409	1,162,570	7,355,110	2,752,019	2,176,011
2000-01	85,048,123	27,413,897	9,019,966	1,467,325	7,333,851	6,036,478	11,292,310	8,957,973	1,160,660	7,253,479	3,133,099	1,979,086
2001-02	91,612,337	29,492,583	10,035,394	1,658,781	7,768,870	6,497,127	11,914,149	9,470,557	1,173,725	7,632,942	3,396,831	2,571,376
2002-03	99,137,236	31,866,310	11,079,332	1,871,274	8,122,181	7,014,149	12,996,836	9,876,937	1,161,441	7,586,208	3,854,471	3,708,098
2003-04	103,733,257	33,712,542	12,039,080	1,964,898	8,726,505	7,466,472	13,774,084	10,464,984	1,084,880	8,374,128	4,221,611	1,904,075
2004-05	109,789,731	36,051,084	12,812,326	1,993,767	9,307,600	8,101,214	14,516,197	10,899,456	1,051,216	9,180,775	4,223,779	1,652,317
2005-06	116,247,359	38,249,125	13,241,769	1,931,804	10,177,381	8,894,330	15,524,004	11,696,510	699,462	9,645,428	4,203,523	1,984,024
2006-07	124,061,478	41,056,590	13,703,502	2,028,364	10,850,270	9,522,535	16,693,987	12,414,609	714,398	10,400,055	4,680,393	1,996,775
2-year												
1996-97	730,755	204,288	1,467	5,564	40,223	135,429	130,857	67,324	26,590	---	---	119,013
1997-98	623,424	239,735	649	3,341	34,038	86,403	150,692	76,726	20,901	198	10,740	---
1998-99	711,212	358,450	101	7,799	40,826	70,603	135,638	70,226	24,049	1,917	1,602	---
1999-2000 ..	913,378	268,400	5,358	8,415	34,612	97,521	186,936	71,612	18,311	0	1,660	220,553
2000-01	576,893	193,428	5,772	5,967	34,412	80,717	141,764	52,880	15,500	1,896	1,510	43,046
2001-02	579,960	196,459	86	7,102	33,767	76,058	153,971	45,271	14,965	100	1,147	51,033
2002-03	610,840	195,909	200	7,106	34,506	82,074	160,908	59,541	12,404	0	25,265	32,926
2003-04	584,612	196,637	451	7,453	33,238	77,549	177,324	43,735	16,859	0	1,369	29,995
2004-05	604,395	207,389	532	6,670	34,464	90,523	174,131	44,886	18,375	0	0	27,425
2005-06	570,554	215,934	574	9,715	39,893	71,374	143,096	44,748	8,696	0	0	36,524
2006-07	496,247	166,893	947	8,224	31,758	68,799	137,366	36,478	13,741	0	0	32,041
	Percentage distribution											
All institutions												
1996-97	100.00	31.34	9.94	2.41	7.33	6.57	12.21	10.50	2.27	---	---	17.42
1997-98	100.00	33.77	10.49	2.41	8.28	7.08	13.19	11.11	1.87	9.23	2.57	---
1998-99	100.00	33.35	10.30	2.01	8.41	7.01	13.11	10.63	1.62	9.61	3.95	---
1999-2000 ..	100.00	32.27	10.40	1.79	8.08	7.06	13.13	10.30	1.46	9.12	3.42	2.97
2000-01	100.00	32.24	10.54	1.72	8.61	7.14	13.35	10.52	1.37	8.47	3.66	2.36
2001-02	100.00	32.20	10.89	1.81	8.46	7.13	13.09	10.32	1.29	8.28	3.69	2.84
2002-03	100.00	32.14	11.11	1.88	8.18	7.11	13.19	9.96	1.18	7.61	3.89	3.75
2003-04	100.00	32.51	11.54	1.89	8.40	7.23	13.37	10.07	1.06	8.03	4.05	1.85
2004-05	100.00	32.84	11.61	1.81	8.46	7.42	13.31	9.91	0.97	8.32	3.83	1.52
2005-06	100.00	32.93	11.34	1.66	8.75	7.67	13.41	10.05	0.61	8.26	3.60	1.73
2006-07	100.00	33.10	11.00	1.64	8.74	7.70	13.51	10.00	0.58	8.35	3.76	1.63
4-year												
1996-97	100.00	31.38	10.05	2.42	7.35	6.44	12.14	10.52	2.25	---	---	17.43
1997-98	100.00	33.73	10.58	2.43	8.31	7.01	13.09	11.10	1.86	9.31	2.58	---
1998-99	100.00	33.18	10.40	2.02	8.43	6.98	13.06	10.64	1.60	9.70	3.98	---
1999-2000 ..	100.00	32.30	10.51	1.80	8.13	7.02	13.05	10.32	1.46	9.23	3.45	2.73
2000-01	100.00	32.23	10.61	1.73	8.62	7.10	13.28	10.53	1.36	8.53	3.68	2.33
2001-02	100.00	32.19	10.95	1.81	8.48	7.09	13.00	10.34	1.28	8.33	3.71	2.81
2002-03	100.00	32.14	11.18	1.89	8.19	7.08	13.11	9.96	1.17	7.65	3.89	3.74
2003-04	100.00	32.50	11.61	1.89	8.41	7.20	13.28	10.09	1.05	8.07	4.07	1.84
2004-05	100.00	32.84	11.67	1.82	8.48	7.38	13.22	9.93	0.96	8.36	3.85	1.50
2005-06	100.00	32.90	11.39	1.66	8.75	7.65	13.35	10.06	0.60	8.30	3.62	1.71
2006-07	100.00	33.09	11.05	1.63	8.75	7.68	13.46	10.01	0.58	8.38	3.77	1.61
2-year												
1996-97	100.00	27.96	0.20	0.76	5.50	18.53	17.91	9.21	3.64	---	---	16.29
1997-98	100.00	38.45	0.10	0.54	5.46	13.86	24.17	12.31	3.35	0.03	1.72	---
1998-99	100.00	50.40	0.01	1.10	5.74	9.93	19.07	9.87	3.38	0.27	0.23	---
1999-2000 ..	100.00	29.39	0.59	0.92	3.79	10.68	20.47	7.84	2.00	0.00	0.18	24.15
2000-01	100.00	33.53	1.00	1.03	5.96	13.99	24.57	9.17	2.69	0.33	0.26	7.46
2001-02	100.00	33.87	0.01	1.22	5.82	13.11	26.55	7.81	2.58	0.02	0.20	8.80
2002-03	100.00	32.07	0.03	1.16	5.65	13.44	26.34	9.75	2.03	0.00	4.14	5.39
2003-04	100.00	33.64	0.08	1.27	5.69	13.27	30.33	7.48	2.88	0.00	0.23	5.13
2004-05	100.00	34.31	0.09	1.10	5.70	14.98	28.81	7.43	3.04	0.00	0.00	4.54
2005-06	100.00	37.85	0.10	1.70	6.99	12.51	25.08	7.84	1.52	0.00	0.00	6.40
2006-07	100.00	33.63	0.19	1.66	6.40	13.86	27.68	7.35	2.77	0.00	0.00	6.46
	Expenditure per full-time-equivalent student in current dollars											
All institutions												
1996-97	$27,880	$8,739	$2,772	$671	$2,044	$1,833	$3,403	$2,928	$633	---	---	$4,857
1997-98	28,270	9,547	2,965	682	2,341	2,000	3,728	3,141	529	$2,609	$727	---
1998-99	30,291	10,101	3,120	610	2,547	2,124	3,972	3,220	490	2,912	1,195	---
1999-2000 ..	31,751	10,246	3,301	570	2,564	2,241	4,169	3,269	465	2,897	1,085	944
2000-01	33,069	10,662	3,486	569	2,846	2,363	4,416	3,480	454	2,802	1,211	781
2001-02	34,841	11,220	3,793	630	2,949	2,484	4,561	3,596	449	2,885	1,284	991
2002-03	36,479	11,725	4,052	687	2,983	2,595	4,812	3,634	429	2,774	1,419	1,368
2003-04	37,240	12,105	4,298	704	3,127	2,693	4,980	3,751	393	2,989	1,508	690
2004-05	38,472	12,636	4,465	697	3,256	2,855	5,120	3,814	373	3,199	1,472	585
2005-06	40,156	13,222	4,552	667	3,512	3,082	5,386	4,036	243	3,316	1,445	695
2006-07	42,060	13,920	4,628	688	3,675	3,239	5,684	4,204	246	3,512	1,580	685

4-year												
1996-97	28,327	8,890	2,847	687	2,083	1,825	3,440	2,979	639	---	---	4,938
1997-98	28,740	9,694	3,041	699	2,387	2,016	3,761	3,190	534	2,676	741	---
1998-99	30,706	10,189	3,193	621	2,589	2,145	4,009	3,266	492	2,979	1,222	---
1999-2000 ...	32,064	10,357	3,370	579	2,605	2,249	4,184	3,310	468	2,959	1,107	875
2000-01	33,359	10,753	3,538	576	2,877	2,368	4,429	3,514	455	2,845	1,229	776
2001-02	35,139	11,312	3,849	636	2,980	2,492	4,570	3,633	450	2,928	1,303	986
2002-03	36,742	11,810	4,106	694	3,010	2,600	4,817	3,661	430	2,812	1,429	1,374
2003-04	37,504	12,188	4,353	710	3,155	2,699	4,980	3,784	392	3,028	1,526	688
2004-05	38,726	12,716	4,519	703	3,283	2,858	5,120	3,845	371	3,238	1,490	583
2005-06	40,394	13,291	4,601	671	3,536	3,091	5,394	4,064	243	3,352	1,461	689
2006-07	42,256	13,984	4,667	691	3,696	3,243	5,686	4,228	243	3,542	1,594	680
2-year												
1996-97	11,426	3,194	23	87	629	2,118	2,046	1,053	416	---	---	1,861
1997-98	10,094	3,882	11	54	551	1,399	2,440	1,242	338	3	174	---
1998-99	12,514	6,307	2	137	718	1,242	2,387	1,236	423	34	28	---
1999-2000 ...	17,148	5,039	101	158	650	1,831	3,510	1,345	344	0	31	4,141
2000-01	14,494	4,860	145	150	865	2,028	3,562	1,329	389	48	38	1,081
2001-02	14,890	5,044	2	182	867	1,953	3,953	1,162	384	3	29	1,310
2002-03	16,846	5,403	6	196	952	2,263	4,438	1,642	342	0	697	908
2003-04	16,561	5,570	13	211	942	2,197	5,023	1,239	478	0	39	850
2004-05	17,552	6,023	15	194	1,001	2,629	5,057	1,304	534	0	0	796
2005-06	18,240	6,903	18	311	1,275	2,282	4,575	1,431	278	0	0	1,168
2006-07	19,498	6,557	37	323	1,248	2,703	5,397	1,433	540	0	0	1,259
	Expenditure per full-time-equivalent student in constant 2007-08 dollars\3\											
All institutions												
1996-97	$37,142	$11,642	$3,694	$894	$2,724	$2,441	$4,533	$3,901	$843	---	---	$6,470
1997-98	37,002	12,496	3,881	893	3,064	2,618	4,880	4,111	693	$3,415	$952	---
1998-99	38,973	12,996	4,015	785	3,277	2,733	5,110	4,143	631	3,746	1,538	---
1999-2000 ...	39,705	12,812	4,128	713	3,207	2,802	5,214	4,088	582	3,623	1,356	1,180
2000-01	39,984	12,892	4,215	688	3,441	2,857	5,339	4,208	549	3,388	1,464	944
2001-02	41,393	13,330	4,506	748	3,503	2,951	5,418	4,272	534	3,427	1,526	1,177
2002-03	42,407	13,631	4,710	799	3,468	3,017	5,594	4,224	499	3,225	1,649	1,590
2003-04	42,365	13,771	4,889	801	3,557	3,064	5,666	4,268	447	3,401	1,715	785
2004-05	42,488	13,955	4,931	770	3,596	3,153	5,654	4,212	412	3,533	1,626	646
2005-06	42,721	14,067	4,843	710	3,736	3,279	5,730	4,294	259	3,527	1,537	739
2006-07	43,619	14,436	4,799	713	3,811	3,359	5,894	4,360	255	3,642	1,639	710
4-year												
1996-97	37,738	11,843	3,793	915	2,775	2,431	4,583	3,969	851	---	---	6,579
1997-98	37,617	12,688	3,981	915	3,124	2,639	4,923	4,175	699	3,503	970	---
1998-99	39,507	13,110	4,108	799	3,332	2,759	5,158	4,202	633	3,833	1,573	---
1999-2000 ...	40,096	12,952	4,214	724	3,258	2,813	5,232	4,140	585	3,700	1,385	1,095
2000-01	40,334	13,001	4,278	696	3,478	2,863	5,355	4,248	550	3,440	1,486	939
2001-02	41,747	13,440	4,573	756	3,540	2,961	5,429	4,316	535	3,478	1,548	1,172
2002-03	42,713	13,730	4,774	806	3,499	3,022	5,600	4,255	500	3,269	1,661	1,598
2003-04	42,665	13,866	4,952	808	3,589	3,071	5,665	4,304	446	3,444	1,736	783
2004-05	42,768	14,044	4,991	777	3,626	3,156	5,655	4,246	410	3,576	1,645	644
2005-06	42,974	14,140	4,895	714	3,762	3,288	5,739	4,324	259	3,566	1,554	733
2006-07	43,822	14,502	4,840	716	3,833	3,364	5,897	4,385	252	3,674	1,653	705
2-year												
1996-97	15,222	4,256	31	116	838	2,821	2,726	1,402	554	---	---	2,479
1997-98	13,212	5,081	14	71	721	1,831	3,194	1,626	443	4	228	---
1998-99	16,100	8,115	2	177	924	1,598	3,071	1,590	544	43	36	---
1999-2000 ...	21,444	6,302	126	198	813	2,290	4,389	1,681	430	0	39	5,178
2000-01	17,524	5,876	175	181	1,045	2,452	4,306	1,606	471	58	46	1,308
2001-02	17,690	5,992	3	217	1,030	2,320	4,696	1,381	456	3	35	1,557
2002-03	19,583	6,281	6	228	1,106	2,631	5,159	1,909	398	0	810	1,056
2003-04	18,840	6,337	15	240	1,071	2,499	5,715	1,409	543	0	44	967
2004-05	19,384	6,651	17	214	1,105	2,903	5,585	1,440	589	0	0	880
2005-06	19,405	7,344	20	330	1,357	2,427	4,867	1,522	296	0	0	1,242
2006-07	20,221	6,800	39	335	1,294	2,803	5,597	1,486	560	0	0	1,306

---Not available.

\1\Essentially self-supporting operations of institutions that furnish a service to students, faculty, or staff, such as residence halls and food services.

\2\Excludes tuition and fee allowances and agency transactions, such as student awards made from contributed funds or grant funds.

\3\Constant dollars based on the Consumer Price Index, prepared by the Bureau of Labor Statistics, U.S. Department of Labor, adjusted to a school year basis.

NOTE: Degree-granting institutions grant associate's or higher degrees and participate in Title IV federal financial aid programs. Detail may not sum to totals because of rounding.

SOURCE: U.S. Department of Education, National Center for Education Statistics, 1996-97 through 2006-07 Integrated Postsecondary Education Data System, "Fall Enrollment Survey" (IPEDS-EF:96-99) and "Finance Survey" (IPEDS-F:FY97-99), and Spring 2001 through Spring 2008. (This table was prepared December 2008.)

ATTACHMENT 4

Table 366. Total expenditures of private for-profit degree-granting institutions, by purpose and type of institution: 1998-99 through 2006-07

Year and type of institution	Total	Instruction	Research and public service	Student services, academic and institutional support	Auxiliary enterprises\1\	Net grant aid to students\2\	Other
	Total expenditures, by purpose						
1	2	3	4	5	6	7	8
	In thousands of current dollars						
All institutions							
1998-99	$3,153,591	$1,132,766	$27,060	$1,823,453	$135,398	$34,913	---
1999-2000 ..	3,846,246	1,171,732	24,738	2,041,594	144,305	26,278	$437,599
2000-01	4,235,781	1,310,054	22,896	2,337,151	181,243	43,788	340,649
2001-02	5,087,292	1,517,389	16,632	2,977,225	213,195	23,283	339,567
2002-03	6,110,378	1,747,725	17,987	3,670,218	240,380	36,031	398,037
2003-04	7,364,012	1,883,733	8,606	4,592,730	249,472	56,467	573,004
2004-05	8,830,792	2,313,895	7,583	5,693,200	269,883	54,819	491,411
2005-06	10,208,845	2,586,870	8,445	6,569,329	276,587	66,569	701,044
2006-07	12,152,366	2,884,481	6,087	7,760,044	332,887	68,300	1,100,568
4-year							
1998-99	1,484,139	499,337	6,703	876,636	81,411	20,052	---
1999-2000 ..	2,022,622	595,976	4,393	1,104,001	92,071	11,805	214,377
2000-01	2,414,655	726,328	4,878	1,385,095	113,371	18,519	166,465
2001-02	3,046,929	883,899	3,192	1,842,373	134,740	8,229	174,495
2002-03	3,754,727	1,030,470	5,339	2,337,388	153,528	14,813	213,190
2003-04	4,821,864	1,143,050	3,705	3,108,697	168,069	32,603	365,740
2004-05	5,989,792	1,430,196	3,513	4,110,514	180,036	38,639	226,894
2005-06	7,218,830	1,680,603	4,065	4,985,531	179,064	54,291	315,276
2006-07	8,837,598	1,857,765	4,303	5,909,914	228,624	56,930	780,063
2-year							
1998-99	1,669,451	633,429	20,357	946,817	53,987	14,861	---
1999-2000 ..	1,823,624	575,756	20,345	937,593	52,234	14,473	223,223
2000-01	1,821,126	583,727	18,019	952,056	67,872	25,269	174,184
2001-02	2,040,363	633,490	13,440	1,134,853	78,455	15,054	165,071
2002-03	2,355,650	717,255	12,648	1,332,830	86,853	21,218	184,846
2003-04	2,542,148	740,683	4,901	1,484,033	81,403	23,864	207,264
2004-05	2,840,999	883,699	4,070	1,582,687	89,846	16,181	264,517
2005-06	2,990,015	906,267	4,381	1,583,798	97,523	12,278	385,768
2006-07	3,314,768	1,026,716	1,784	1,850,129	104,264	11,370	320,505
	Percentage distribution						
All institutions							
1998-99	100.00	35.92	0.86	57.82	4.29	1.11	---
1999-2000 ..	100.00	30.46	0.64	53.08	3.75	0.68	11.38
2000-01	100.00	30.93	0.54	55.18	4.28	1.03	8.04
2001-02	100.00	29.83	0.33	58.52	4.19	0.46	6.67
2002-03	100.00	28.60	0.29	60.07	3.93	0.59	6.51
2003-04	100.00	25.58	0.12	62.37	3.39	0.77	7.78
2004-05	100.00	26.20	0.09	64.47	3.06	0.62	5.56
2005-06	100.00	25.34	0.08	64.35	2.71	0.65	6.87
2006-07	100.00	23.74	0.05	63.86	2.74	0.56	9.06
4-year							
1998-99	100.00	33.64	0.45	59.07	5.49	1.35	---
1999-2000 ..	100.00	29.47	0.22	54.58	4.55	0.58	10.60
2000-01	100.00	30.08	0.20	57.36	4.70	0.77	6.89
2001-02	100.00	29.01	0.10	60.47	4.42	0.27	5.73
2002-03	100.00	27.44	0.14	62.25	4.09	0.39	5.68
2003-04	100.00	23.71	0.08	64.47	3.49	0.68	7.59
2004-05	100.00	23.88	0.06	68.63	3.01	0.65	3.79
2005-06	100.00	23.28	0.06	69.06	2.48	0.75	4.37
2006-07	100.00	21.02	0.05	66.87	2.59	0.64	8.83
2-year							
1998-99	100.00	37.94	1.22	56.71	3.23	0.89	---
1999-2000 ..	100.00	31.57	1.12	51.41	2.86	0.79	12.24
2000-01	100.00	32.05	0.99	52.28	3.73	1.39	9.56
2001-02	100.00	31.05	0.66	55.62	3.85	0.74	8.09
2002-03	100.00	30.45	0.54	56.58	3.69	0.90	7.85
2003-04	100.00	29.14	0.19	58.38	3.20	0.94	8.15
2004-05	100.00	31.11	0.14	55.71	3.16	0.57	9.31
2005-06	100.00	30.31	0.15	52.97	3.26	0.41	12.90
2006-07	100.00	30.97	0.05	55.81	3.15	0.34	9.67
	Total expenditures per full-time-equivalent student in current dollars						
All institutions							
1998-99	9,685	3,479	83	5,600	416	107	---

1999-2000 ..	10,000	3,046	64	5,308	375	68	1,138
2000-01	10,781	3,334	58	5,949	461	111	867
2001-02	11,144	3,324	36	6,522	467	51	744
2002-03	11,301	3,232	33	6,788	445	67	736
2003-04	11,381	2,911	13	7,098	386	87	886
2004-05	11,205	2,936	10	7,224	342	70	624
2005-06	11,336	2,873	9	7,295	307	74	778
2006-07	12,880	3,057	6	8,225	353	72	1,166
4-year							
1998-99	9,117	3,068	41	5,385	500	123	---
1999-2000 ..	9,688	2,855	21	5,288	441	57	1,027
2000-01	10,588	3,185	21	6,074	497	81	730
2001-02	11,021	3,197	12	6,664	487	30	631
2002-03	10,862	2,981	15	6,762	444	43	617
2003-04	11,291	2,677	9	7,279	394	76	856
2004-05	10,818	2,583	6	7,424	325	70	410
2005-06	10,897	2,537	6	7,526	270	82	476
2006-07	12,551	2,638	6	8,393	325	81	1,108
2-year							
1998-99	10,252	3,890	125	5,815	332	91	---
1999-2000 ..	10,370	3,274	116	5,332	297	82	1,269
2000-01	11,048	3,541	109	5,776	412	153	1,057
2001-02	11,333	3,519	75	6,303	436	84	917
2002-03	12,081	3,678	65	6,835	445	109	948
2003-04	11,557	3,367	22	6,747	370	108	942
2004-05	12,120	3,770	17	6,752	383	69	1,128
2005-06	12,558	3,806	18	6,652	410	52	1,620
2006-07	13,848	4,289	7	7,729	436	47	1,339
	Total expenditures per full-time-equivalent student in constant 2007-08 dollars\3\						
All institutions							
1998-99	12,449	4,472	107	7,198	534	138	---
1999-2000 ..	12,493	3,806	80	6,631	469	85	1,421
2000-01	11,208	3,466	61	6,184	480	116	901
2001-02	13,226	3,945	43	7,740	554	61	883
2002-03	13,125	3,754	39	7,884	516	77	855
2003-04	12,935	3,309	15	8,067	438	99	1,006
2004-05	12,363	3,239	11	7,970	378	77	688
2005-06	12,049	3,053	10	7,753	326	79	827
2006-07	13,344	3,167	7	8,521	366	75	1,209
4-year							
1998-99	11,719	3,943	53	6,922	643	158	---
1999-2000 ..	12,104	3,566	26	6,607	551	71	1,283
2000-01	12,790	3,847	26	7,337	600	98	882
2001-02	13,080	3,795	14	7,909	578	35	749
2002-03	12,615	3,462	18	7,853	516	50	716
2003-04	12,832	3,042	10	8,273	447	87	973
2004-05	11,935	2,850	7	8,191	359	77	452
2005-06	11,582	2,696	7	7,999	287	87	506
2006-07	13,004	2,733	6	8,696	336	84	1,148
2-year							
1998-99	13,178	5,000	161	7,474	426	117	---
1999-2000 ..	12,956	4,090	145	6,661	371	103	1,586
2000-01	13,345	4,278	132	6,977	497	185	1,276
2001-02	13,451	4,176	89	7,481	517	99	1,088
2002-03	14,030	4,272	75	7,938	517	126	1,101
2003-04	13,135	3,827	25	7,668	421	123	1,071
2004-05	13,372	4,160	19	7,450	423	76	1,245
2005-06	13,348	4,046	20	7,070	435	55	1,722
2006-07	14,347	4,444	8	8,008	451	49	1,387

---Not available.

\1\Essentially self-supporting operations of institutions that furnish a service to students, faculty, or staff, such as residence halls and food services.

\2\Excludes tuition and fee allowances and agency transactions, such as student awards made from contributed funds or grant funds.

\3\Constant dollars based on the Consumer Price Index, prepared by the Bureau of Labor Statistics, U.S. Department of Labor, adjusted to a school-year basis.

NOTE: Degree-granting institutions grant associate's or higher degrees and participate in Title IV federal financial aid programs. Detail may not sum to totals because of rounding.

SOURCE: U.S. Department of Education, National Center for Education Statistics, 1998-99 through 2006-07 Integrated Postsecondary Education Data System, "Fall Enrollment Survey" (IPEDS-EF:98-99) and "Finance Survey" (IPEDS-F:FY99), and Spring 2001 through Spring 2008. (This table was prepared December 2008.)

ATTACHMENT 5.—COUNCIL FOR HIGHER EDUCATION ACCREDITATION (CHEA®)

THE VALUE OF ACCREDITATION

Accreditation in the United States is a means to assure and improve higher education quality, assisting institutions and programs using a set of standards developed by peers. An institution or program that has successfully completed an accreditation review has in place the needed instructional, student support and other services to assist students to achieve their educational goals. Accreditation has helped to provide the conditions necessary for the United States to develop diverse, flexible, robust and often admired higher education.

ACCREDITATION: A PROCESS AND A STATUS

Accreditation is both a process and a status. It is the process of reviewing colleges, universities, institutions and programs to judge their educational quality—how well they serve students and society. The result of the process, if successful, is the award of "accredited status."

Accreditation is carried out through nongovernmental organizations created in whole or in part by the higher education community. Some accrediting organizations review colleges and universities. Others review specific programs, e.g., law, medicine, engineering. In a number of fields, especially the health professions, graduation from an accredited program is a requirement for receiving a license to practice. At present, 80 recognized organizations accredit more than 7,000 institutions and 19,000 programs serving more than 24 million students.*

All accrediting organizations create and use specific standards both to assure that institutions and programs meet threshold expectations of quality and to assure that they improve over time. These standards address key areas such as faculty, student support services, finance and facilities, curricula and student learning outcomes.

All accrediting organizations use common practices, including a self review by the institution or program against the standards, an on-site visit by an evaluation team of peer experts and a subsequent review and decision by the accrediting body about accredited status. This review is repeated every 3 to 10 years if the institution or program is to sustain its accreditation.

Established accrediting organizations themselves are usually subject to external review, a process called "recognition." This involves periodic examination of the organizations based on a set of standards. The external examination is carried out by the U.S. Department of Education or, in the private sector, the Council for Higher Education Accreditation.

ACCREDITATION BENEFITS STUDENTS AND THE PUBLIC

"Accredited status" means that students and the public can expect that a school or program lives up to its promises. It means that a student can have confidence that a degree or credential has value. Accreditation signals that the public can have confidence in the worth of an institution or program.

For students, accreditation provides value related to not only judging quality, but also obtaining employment, receiving student aid and transferring credits. Accreditation:

- Encourages confidence that the educational activities of an accredited institution or program have been found to be satisfactory.
- Assists with student mobility: Accredited status indicates to institutions judging requests for transfer or applications for graduate school that the sending institution or program has met threshold expectations of quality.
- Signals to prospective employers that a student's educational program has met widely accepted standards, with graduation from an accredited program, in some cases, a prerequisite for entering a profession.
- Provides access to Federal and sometimes State financial aid, available to qualified students who attend institutions accredited by recognized accrediting organizations.

To the public, the accreditation process provides value not only through judging quality, but also assuring reliable information about institutions and programs, promoting accountability and identifying successful improvement efforts. Accreditation:

- Confirms that the public presentation of an educational program, student services and graduate accomplishments is fair and accurate.
- Promotes accountability through ongoing external evaluation of the institution or program, with a finding that there is compliance with general expectations in higher education or a professional field as reflected in the accreditation standards.

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* *Council for Higher Education Accreditation, 2008. The Council for Higher Education Accreditation (CHEA®)* is a private, nonprofit national organization that coordinates accreditation activity in the United States. ® represents more than 3,000 colleges and universities and 60 national, regional and specialized accreditors.

• Identifies institutions and programs that have voluntarily undertaken explicit activities directed at improving the quality of the institution and its professional programs and are carrying them out successfully.

Frequently Asked Questions

What is the Value of Accreditation?

Accreditation:

• Encourages confidence that an institution's or program's presentation of the education it provides is fair and accurate, including the description of services available to students and the accomplishments of its graduates.
• Assures that a neutral, external party (the accrediting organization) has reviewed the quality of education provided and has found it to be satisfactory, based upon appropriate peer expertise.
• Confirms that institutions and programs have processes in place to meet changes in thinking within the academy and in the public's expectations;
• Provides for eligible students to have access to Federal financial aid if they attend institutions accredited by accreditors that are "recognized" or scrutinized for quality by the U.S. Department of Education (USDE).
• Assists with transfer of credits among institutions or admission to graduate school, with student mobility more likely to be successful among accredited institutions as compared to unaccredited institutions.
• Aids with entrance to a profession, when a particular field may require graduation from an accredited program or institution.
• Signals prospective employers that an educational program has met widely accepted educational standards.

Why is the Accredited Status of an Institution or Program Important to Students?

Accredited status is a reliable indication of the value and quality of educational institutions and programs to students and the public. Without accredited status, it is hard to be sure about the quality of the education or to be confident that an institution or program can deliver on its promises. Similarly, employers or graduate programs cannot be confident that graduates of an unaccredited institution or program will be appropriately prepared. Remember that accreditation of an institution may not mean that a specific program is accredited, particularly a professional program leading to licensure.

What Does the Fact That the Institution or Program is Accredited Mean to Students?

It means that students can have confidence in an institution or program because those who went before had access to a quality education. Through accreditation, peer experts have reviewed the quality of the education provided, the processes by which students are educated and the processes that the institution or program uses to maintain an acceptable level of quality over time.

How Do Students Know That an Accredited Institution or Program Will Keep Its Word in Providing the Education Described in Its Public Materials?

As part of the accreditation process, institutions and programs must demonstrate that they meet the accreditation standards requiring that they provide quality education. And, they have to demonstrate truth in advertising—that the information presented about the education they offer is accurate.

Can Every Accreditor be Trusted?

Not all accreditors are the same. Recognition of an accreditor by USDE or the Council for Higher Education Accreditation (CHEA®) means that the accreditor has been reviewed by an outside organization to determine that the accreditor is trustworthy. Both of these organizations provide periodic external reviews of accrediting organizations and have high standards, checking, e.g., every 5 to 10 years to see if the accreditors they have recognized continue to meet these standards. Some established accrediting organizations are not eligible to address either USDE or CHEA® recognition standards. Others may deserve special scrutiny because they may be rogue providers of accreditation or "accreditation mills."

What is a "Recognized" Accrediting Organization?

Just as institutions and programs are accredited, accrediting organizations are reviewed to make sure that they have processes and outcomes in place to protect students and the public. An accrediting organization that has been reviewed and determined to meet the standards of an external body, such as USDE or CHEA®, is "recognized."

How Does the Accrediting Organization Review Educational Outcomes?

Accrediting organizations require institutions and programs to set standards for student learning outcomes and provide evidence that the learning outcomes are achieved. The expected outcomes and the evidence vary, depending on the level of education provided and the different skills or competencies required of graduates in different fields.

What Are Some of the Differences Between Accredited and Unaccredited Institutions and Programs?

All accredited institutions and programs must provide resources to assist students toward successful completion of their courses of study. Although similar resources may be available in institutions or programs that are not accredited, accreditation provides external assurance that those resources are in place.

Where is Information About Accredited Institutions and Programs Available?

All accrediting organizations provide information to the public about the institutions and programs they accredit, when they are reviewed and the general results of the most recent accreditation review. This is readily available on the accreditor's Web site.

For a complete list of accrediting organizations and access to their accredited institutions or programs, go to: CHEA®: *http://www.chea.org/pdf/2009_2010_Directory_of_CHEA_Recognized_Organizations.pdf*; USDE: *http://ope.ed.gov/accreditation/*.

ATTACHMENT 8

April 19, 2010.

Hon. ANTHONY WILDER MILLER,
Deputy Secretary,
U.S. Department of Education,
Washington, DC 20202.

DEAR SECRETARY MILLER: Thank you for meeting with us this past Thursday to discuss the Department of Education's (ED) proposed Gainful Employment (GE) regulation. We appreciate the candid discussion, and want to follow up on several items that arose in our meeting.

We appreciated your reinforcement of the ED's public statements that it views private sector presence in the higher education marketplace as positive. We also believe that it is not the ED's intention to eliminate private sector institutions or eliminate private capital from higher education. We view these as important points because the GE proposal made during Negotiated Rulemaking—*which would substantially eliminate proprietary institutions' ability to offer degrees*—is not consistent with the ED's goals.

Our comments come from a sincere concern for the students we serve, an understanding of the limited educational opportunities afforded to these students, and the success stories of their fellow students who graduated before them. We educate hundreds of thousands of students each year, enabling them to obtain jobs and begin careers that are transformational not only for those students, but for generations to follow. We each offer non-degree, associate, baccalaureate and graduate degree programs. Across our three organizations, we enroll more than 300,000 students and employ more than 50,000 faculty and staff each year.

As we discussed, while the ED's GE proposal will exclude fully one-third of our students from the programs they currently attend, its effect on degree programs is the most severe. The ED's GE proposal is unworkable for the vast majority of degree programs in our sector and will result in as many as half of the 2 million-plus degree students at our colleges being denied title IV funds. This includes, among countless examples, Bachelor's of Science in Nursing students, at a time when our country faces a growing nursing shortage. Private sector colleges are a vital source of new capacity in nursing education as well as in allied health fields, where they educate 54 percent of all such professionals. We do not believe this could possibly be the intent of the ED, which is why we are asking you to revise your proposal to avoid these unintended consequences.

Likewise, we reiterate that the 50 percent graduation rate exception described recently does little to ameliorate the impact of the ED's last GE proposal. With the Nation's median aggregate college graduation rate at less than 50 percent for all types of colleges (private, public and non-profit alike—including elite colleges with 90 percent+ graduation rates), even this exception would exclude the students at more than half of all colleges from participation in the title IV program. Many of those excluded students would be the very ones Congress was attempting to help through the Stafford and Pell programs, and those for whom there are few other educational opportunities today.

We understand the objectives of the proposed GE regulations are focused on two concerns:

1. The ED's concern that a material segment of students take on disproportionate debt for value received. More specifically, a concern that the risk tolerance of these students essentially means that no amount of warning would deter them from making a poor enrollment decision and "over-borrowing"—i.e., borrowing more than their ultimate job prospects would enable them to repay.

2. The ED's concern about the risk that certain investors could purchase schools with the intention of growing revenue by dramatically increasing enrollment without regard to educational quality, and then turning a quick profit by re-selling the institution to another buyer or to the investing public through a securities offering. The concern here is that such investors would take advantage of the difference between their short timetable and the inherently longer term during which regulatory problems mature—all while drawing Federal financial aid and increasing the overall student debt burden.

As we discussed in our meeting, we share your concern about student over-borrowing and believe our proposal can solve that problem without harming quality schools. Section 1 of this letter expounds further on our student debt proposal and offers additional alternatives.

We also understand your concerns about the incentives certain investors might have and believe that the ED has the tools to constrain them without harming students across the sector. The ED's ability to constrain such investors is discussed in section 2 of this letter.

OUR PROPOSAL AND SIMPLE MODIFICATIONS TO THE DEBT-SERVICE-TO-INCOME RATIO CAN SOLVE THE PROBLEM OF STUDENT OVER-BORROWING WITHOUT HARMING STUDENTS OF QUALITY SCHOOLS

We continue to believe that student debt concerns can be addressed quickly and meaningfully by: (a) mandating that institutions disclose to students the information students need to make informed decisions prior to taking on debt, and (b) implementing a student consumer "lemon law" that warns students prior to enrollment about programs that fail to meet a minimum debt-service-to-income ratio (Appendix A). This approach has at least four advantages over the ED's GE proposal: (1) it addresses the concern that defining "gainful employment" by student debt levels is beyond congressional intent; (2) it is a less draconian approach from an enforcement perspective; (3) it avoids the risk of inadvertently eliminating quality programs if the ratio parameters are not set appropriately; and (4) it will immediately address the ED's concerns while still allowing the ED and schools to complete the data collection and analysis necessary to develop a more studied approach, if necessary. This approach would indeed give the ED new tools to address the risk for programs that do not provide value commensurate with their cost.

Under our proposal, in addition to disclosure, a school would be required to warn students if that school had failed certain debt-service-to-income metrics. The proposed metrics would roughly follow those in the ED's latest GE proposal, but with the following modifications:

a. Any Debt-Service-To-Income Ratio Should Apply Only To Non-Degree Programs

As you are aware, the GE requirement contained in the Higher Education Act (HEA) applies to *all* program offerings at proprietary institutions including Associate's, Bachelor's and Master's and doctoral-level and professional degrees (other than a *de minimis* number of "liberal arts" programs) and only non-degree programs at public and private nonprofit institutions. While we believe that a debt-service-to-income formula is inappropriate, we are especially concerned with a formula that is inherently biased against degree programs (and with corresponding alternative measures that are biased as well).

There are a number of reasons why debt-service-to-income ratios such as those contained in the ED's GE proposal should not apply to degree programs. First, it is very unlikely that Congress intended the GE requirement to apply to degree programs. When the GE requirement was first introduced by Congress in the 1965 HEA, very few proprietary schools were degree granting. Second, the at-risk students the ED is seeking to protect are much more likely to enroll in non-degree programs than in degree programs. Third, the lifetime benefits conferred by degree programs, such as higher lifetime earnings, higher income growth rates, greater employability, better career advancement and job stability, don't readily lend themselves to a formulaic approach to measuring value using job codes and BLS statistics. For these reasons, debt-service-to-income ratios should not apply to degree programs.

To accomplish the above and to overcome our concerns with the ED's debt-service-to-income proposal, we recommend the ED use the following language, which tracks the last language proposed at the Negotiated Rulemaking session (bolded to show changes/additions):

(a) General. (1) An institution . . . offering an eligible ***non-degree*** program . . . ***shall be required to warn students that they are likely to have difficulty meeting their repayment obligations in such program where*** . . . at the end of each 3-year period . . . the debt to earnings ratio associated with the program is ***12*** percent or less . . .

(b) Debt to earnings ratio. ***[A]n*** institution calculates the ratio for the 3-year period by——

(1) Determining the median loan debt of students who completed or graduated from the ***non-degree*** program (loan debt includes title IV, HEA programs (except Parent PLUS), institutional loans and private educational loans) during the 3-year period and using the mean loan debt to calculate an annual loan payment based on a ***15-year*** repayment schedule and the current annual interest rate on Unsubsidized Federal Stafford Loans or Direct Unsubsidized Loans;

(2) Using the most current Bureau of Labor Statistics (BLS) data . . . to determine the annual earnings, at the 25th percentile, made by persons employed in occupations related to the training provided by the ***non-degree*** program; . . .

b. Alternatively, There Should Be a Tiered Approach To the Debt-Service-To-Income Formula

Should the ED be inclined to include degree programs, we recommend different formulae for non-degree programs, Associate's degree programs, and Bachelor's degree programs. Post-baccalaureate programs would not be included as those students, having successfully completed at least a Bachelor's level of education, are more sophisticated consumers and better equipped to make informed borrowing decisions.

We recommend the following graduated degree metrics:

Program Level	Debt-service-to-income threshold [In percent]	BLS Percentile	Years in Repayment
Non-Degree	12	25th	15
Associate's Degree	15	50th	15
Bachelor's Degree	15	50th	20

These numbers are consistent with the studies by Kantrowitz and Baum referenced in our April 12, 2010 letter.

c. Any Formula Should Contain an Exclusion for Prior School Debt

As we also discussed, prior school debt should be excluded from any debt-service-to-income ratio test. By excluding prior debt, the ED can ensure that students who may have failed in the past will continue to have an opportunity to succeed in the future, without penalizing schools for giving the students that opportunity.

d. There Are Other Alternatives Worth Exploring

In the event the ED chooses to pursue a debt-service-to-income ratio test, we reiterate our recommendation that the ED consider alternative routes to compliance as part of that test. These alternatives include maintaining target graduate cohort default rates (GCDRs) at 12.5 percent over 2 years and 15 percent over 3 years. They also include a threshold for post-graduate employment rates. We recommend setting a minimum employment rate of 70 percent within 6 months following graduation. As we discussed, the employment rate would be measured using methodologies similar to those of the larger national accrediting agencies, but with additional flexibility, particularly for degree programs, as degree-seeking students are likely to use their degree for general employment advancement.

2. THE ED HAS AN ARRAY OF POWERFUL TOOLS TO CONSTRAIN CERTAIN NEW INVESTORS

As we discussed, most private sector higher education companies are invested in students for the long haul. Certainly, Kaplan, DeVry, and EDMC—as well as other higher education organizations—are focused on building enduring institutions that create value for our students, our employees, and our communities. Our institutions will only succeed to the extent our students succeed. We are passionate about our students' achieving their learning outcomes, securing good jobs, and becoming contributing members of society. Our reputation is essential to attracting students, faculty, and employees. Indeed, most of our alumni quietly but successfully enter into essential roles in the American economy—working hard, paying taxes, and raising their families. Their enthusiasm is what encourages other students to join our institutions—and any unhappiness or frustration with their learning experiences would quickly hamper our institutions' ability to attract new students.

We understand your concern that some firms may invest in higher education with different motives and according to a vastly different timetable. They may see an opportunity to purchase a struggling institution, grow it rapidly, and exit the business before difficulties like poor completion, employment rates, cohort default rates or other problems mature—all at the students' and the taxpayers' expense.

We respectfully submit that the HEA currently provides the ED with ample measures to prevent such a scenario from occurring. A number of such measures are enumerated below. A chart providing additional detail regarding these measures is attached as Appendix B to this letter.

1. The ED has the authority to condition or withhold title IV approval from new owners who do not have a demonstrated track record.
2. The ED may condition or disallow the resumption of title IV participation following a change in ownership.
3. Following a change in ownership, the ED may terminate an institution's eligibility to participate in the title IV programs without the institution having the usual due process rights to contest the termination.
4. The ED has the ability to ensure that no students receive title IV funds until the ED is satisfied that the students are eligible for the funds and the school is worthy.

We appreciate your meeting with us and we sincerely hope that you have found these observations and ideas useful. We look forward to discussing these matters further. Should you so desire, we would be happy to provide you with further clarifications and are available to meet at your convenience.

Yours Truly,

ANDREW S. ROSEN,
Chairman and CEO, Kaplan, Inc.

DANIEL HAMBURGER,
President and CEO, DeVry Inc.

TODD S. NELSON,
CEO, Education Management Corporation.

Appendix A

XYZ UNIVERSITY
INSTITUTIONAL DISCLOSURES RELATED TO EXPECTED EARNINGS AND DEBT

You have requested information about our **Veterinary Assistant** program

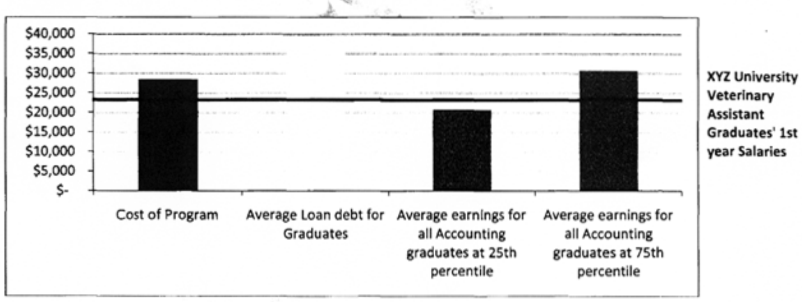
WARNING: The annual loan repayment burden for graduates of this program at XYZ University exceeds the maximum debt-to-earnings ratio as recommended by the U. S. Department of Education.

Program Level: ☐Associates ☐Bachelors ☒Certificate/Diploma

Here are some important disclosures for the award year ending **June 30, 2009**

During the year ended **June 30, 2009**, **81.2**% of students enrolled in this program graduated or continued their enrollment into the next year while **18.8**% withdrew from school.[1]

Of the students who graduated and were available for employment[2], **73.4**% were employed in their field of study, or a related field, within six months of graduation with an average annual salary of $**23,600** per year.

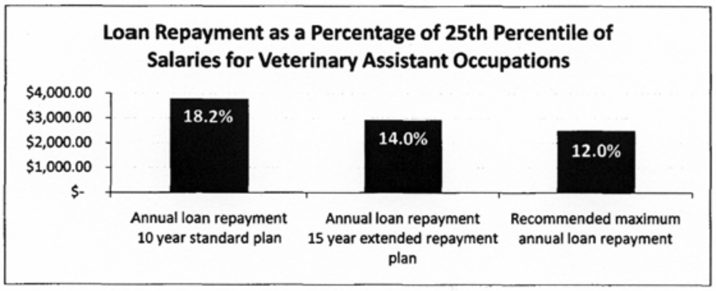


The weighted annual salaries for this occupation at the 25th and 75th percentiles are $**20,809** and $**30,706**, respectively.[3]

The cost for this program of study at XYZ University for a student enrolled full-time and with no transfer credits is $**28,440**. The average annual tuition increase for the three most recent years was **4.6**%.

The average education loan debt incurred at this institution for graduates of this program during the 2009 award year was $**27,400**. This amount includes $**20,300** of federal student loans and $**17,100** of institutional loans. Additionally, **2.0**% of graduates obtained private student loans from third parties.

Appendix A



If this average education loan debt was 100% federal loans with an average interest rate of 6.8% and you chose to repay using a 10 year standard repayment term, the annual total of 12 monthly payments would be $**3,783.34**. If you chose to pay using a 15 year extended repayment term, the total of your first 12 monthly payments would be $**2,918.76.**[3]

The latest official Cohort Default Rate (FY07) from the US Department of Education indicates that **3.6**% of graduates in this program defaulted on their federal loans.

NOTE: YOUR ACTUAL EXPERIENCE MAY BE DIFFERENT THAN THE AVERAGES AND STATISTICS PRESENTED ABOVE AND THAT THE DATA PRESENTED WILL CHANGE IN THE FUTURE.

____

(Student Signature)

____

(Date)

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(1) Withdrawal rates are calculated for the selected program using the methodology required for the Institutional Post-secondary Enrollment Data Survey to the U. S. Department of Education. The graduation and continuing enrollment rate represents the complement of the withdrawal rate.

(2) Graduates in the following categories are considered unavailable for employment and are not counted in the placement rate calculation: graduates who are pursuing further education, are deceased, are in active military service, have medical conditions that prevent them from working, are continuing in a career unrelated to their program of study because they currently earn salaries which exceed those paid to entry-level employees in their field of study, or are international students no longer residing in the country in which their school is located.

(3) Salaries are from the Bureau of Labor Statistics as reported for the Standard Occupational Classification (SOC) codes that correspond to the Classification of Instructional Program (CIP) code for this academic program. For information related to salaries from these and other occupations, please visit http://www.bls.gov/oes/current/oes_nat.htm.

(4) Costs are based on tuition rates and fees currently charged to students in the indicated program of study.

(5) The recommended loan repayment is calculated using a debt-to-earnings ratio of 12% of the 25th percentile of salaries as reported from the Bureau of Labor Statistics for the Standard Occupational Classification (SOC) codes that correspond to the Classification of Instructional Program (CIP) code for this academic program.

(6) For more information concerning repayment options on federal loans, please visit https://studentloans.gov/myDirectLoan/index.action.

APPENDIX B

Enforcement Mechanism	Summary	Regulatory Citations
Title IV Eligibility Terminates Upon Institutional Change in Ownership *An institution that changes ownership must enter into a new program participation agreement at the ED's discretion. The ED may review all aspects of the institution and may deny ongoing Title IV participation.*	Title IV eligibility terminates when an institution changes ownership. The new ownership must re-apply for participation in Title IV programs. Under ED's current practice, the ED may extend the current program participation agreement under a "provisional certification." The ED will not approve the new owners without a demonstrated track record (as indicated by at least two years of audited financial statements) in higher education unless they (1) post a letter of credit (typically 25 percent of the Title IV aid disbursed to the institution's students during the previous fiscal year), and (2) agree to growth restrictions (typically the inability to offer new programs or open new locations until the ED has reviewed and approved financial aid and compliance audits for a full fiscal year of operations under the new ownership).	34 C.F.R. §600.20(g) and (h) 34 C.F.R. §600.31(a) 34 C.F.R. §668.13 34 C.F.R. §668.14 34 C.F.R. §668.23
Additional Program Participation Agreement Conditions *ED has discretion to include additional provisions in new participation agreement*	The ED has the ability to add any additional conditions in any new program participation agreement that the Secretary requires the institution to meet in order for the new institution to participate in Title IV.	34 C.F.R. §668.13(c)(4)(ii)
Disallowance of Title IV Participation *May revoke Title IV participation following a change*	Before the expiration of a provisionally certified institution's period of participation, if the Secretary determines that the institution is unable to meet its responsibilities under its program participation agreement, the Secretary may revoke the institution's provisional certification for participation in that program.	34 C.F.R. §668.13(d)(1)
Reimbursement or Heightened Cash Monitoring *Ability to place institution on cash management restrictions, even in absence of change in ownership*	Even in the absence of a change in ownership, the ED has the ability to place a school on the reimbursement or heightened cash monitoring method of Title IV payments, so that no students receive Title IV funds until the ED is satisfied that the students are eligible for the funds and the school is worthy of administrating the funds.	34 C.F.R. §668.162 34 C.F.R. §668.175(d)(2)(i)
Annual Compliance Audits *May annually review institution's compliance with Department regulations*	Once the ED has confirmed the institution's eligibility for Title IV, the institution must file annual compliance audit statements with the ED. Thus, the ED can monitor the institution's management and take action as needed.	34 C.F.R. §668.23(b)
Program Review Requirements *ED may conduct a full program review of any institution in addition to the review associated with applying for eligibility*	In addition to the fact that an institution that changes ownership will be required undergo new Title IV eligibility review, the ED can review any program at any time to determine compliance or issues.	34 C.F.R. §668.24(f)

ATTACHMENT 9.—EXECUTIVE SUMMARY

HELP WANTED: PROJECTIONS OF JOBS AND EDUCATION REQUIREMENTS THROUGH 2018

(By Anthony P. Carnevale, Nicole Smith, and Jeff Strohl)

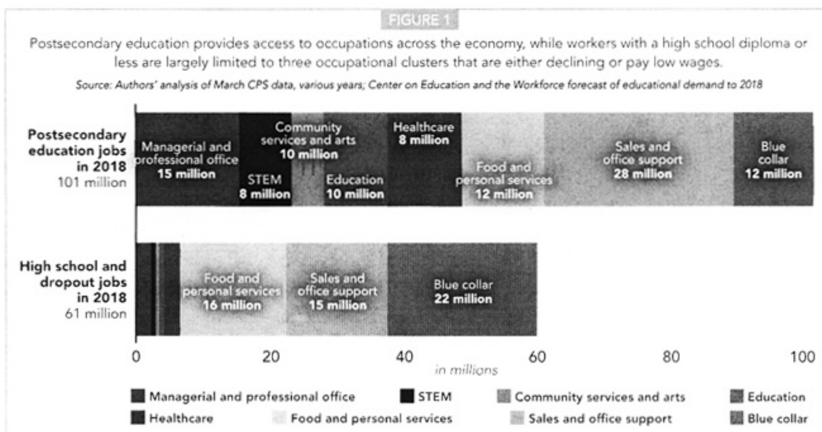
America is slowly coming out of the Recession of 2007—only to find itself on a collision course with the future: not enough Americans are completing college.[1] The Georgetown University Center on Education and the Workforce shows that by 2018, we will need 22 million new college degrees—**but will fall short of that number by at least 3 million post-secondary degrees, Associate's or better. In addition, we will need at least 4.7 million new workers with post-secondary certificates.** At a time when every job is precious, this shortfall will mean lost economic opportunity for millions of American workers.

[1] We conducted this research as an alternative to official government data, which consistently underestimate the demand for post-secondary education. Actual counts of post-secondary workers in 2008 showed that the official government estimate of post-secondary degrees was off by 47 percent. Our methodology, for that same period, over-predicted post-secondary education demand by just 4 percent.

This shortage is the latest indication of how crucial post-secondary education and training has become to the American economy. The shortfall—which amounts to a deficit of 300,000 college graduates every year between 2008 and 2018—results from burgeoning demand by employers for workers with high levels of education and training. Our calculations show that America's colleges and universities would need to increase the number of degrees they confer by 10 percent annually, a tall order.

Meeting this demand is not a challenge we can afford to ignore. Our grandparents' economy, which promised well-paying jobs for anyone who graduated from high school, is fading and will soon be altogether gone. Over the past three decades, higher education has become a virtual must for American workers. Between 1973 and 2008, the share of jobs in the U.S. economy which required post-secondary education increased from 28 percent to 59 percent. According to our projections, the future promises more of the same. The share of post-secondary jobs will increase from 59 to 63 percent over the next decade. High school graduates and dropouts will find themselves largely left behind in the coming decade as employer demand for workers with post-secondary degrees continues to surge.

In our analysis of occupations, we find that 9 out 10 workers with a high school education or less are limited to three occupational clusters that either pay low wages or are in decline (Figure 1). As the economy gets back on track over the next 5 years, 60 million Americans are at risk of being locked out of the middle class, toiling in predominantly low-wage jobs that require high school diplomas or less.



THE SHIFT TO A COLLEGE ECONOMY WILL CONTINUE OVER THE NEXT DECADE

The core mechanism at work in increasing demand for post-secondary education and training is the computer, which automates repetitive tasks and increases the value of non-repetitive functions in all jobs. Occupations with high levels of non-repetitive tasks, such as professional and managerial jobs, tend to require post-secondary education and training. These types of jobs are growing, while positions dominated by repetitive tasks that tend to require high school or less, like production jobs, are declining.[2]

The iPod is an example of a typical post-industrial product. Less than 20 percent of the value-added in the manufacture of video and audio equipment from the United States comes from the blue collar production workers who manufacture it. By contrast, about 80 percent of the value-added comes from the white collar office

[2] Many low-wage, low-skill jobs—such as fast food positions—are also difficult to automate. This produces an occupational and wage structure in which low-wage/low-skill jobs continue to grow along with high-skill/high-wage jobs—although much more slowly. Our projections show that technology change preserves many low-wage/low-skill jobs that require high school or less; has mixed effects on mid-skill jobs that require certificates and AA's; and grows high-skill/high-wage jobs that require BA's or better (Autor, Katz and Kearney, 2008).

[3] Anthony Carnevale and Steven Rose. Input Output Analysis of the U.S. Economy. Center on Education and the Workforce. Work in Progress, 2010.

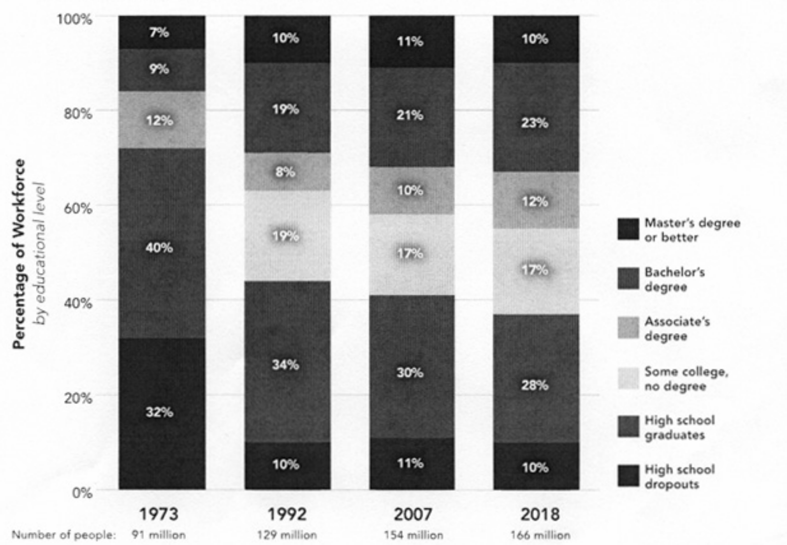
workers who design, market, finance, and manage the global production and dissemination of these products.[3 4]

Consider that, in 1973, there were 25 million jobs available to people with at least some college or better (Figure 2). By 2007 that number ballooned to 91 million jobs. In 34 years, the American job machine nearly quadrupled the number of jobs available to people with at least some formal education beyond high school.

FIGURE 2

Between 1973 and 2018, our projections show that jobs available for workers with postsecondary education are projected to increase from 28 percent to 63 percent of all occupations.

Source: Authors' analysis of March CPS data, various years; Center on Education and the Workforce forecast of educational demand to 2018



POSTSECONDARY EDUCATION HAS BECOME THE GATEKEEPER TO THE MIDDLE CLASS AND THE UPPER CLASS

As the economy evolved, post-secondary education gradually became the threshold requirement for access to middle class status and earnings. In the 37-year timeframe shown in Figure 3, the share of people in the middle class with some college education and no degree or less, declined dramatically.[5]

Over that same period, the share of people with college degrees have either stayed in the middle class or boarded the up-escalator to upper class incomes—the three highest family income deciles. After the dust has settled, the educational composition of the middle class favors workers with some college or better (Figure 4). In 1970, 26 percent of the middle class had post-secondary education and training. By 2007, 61 percent of middle class workers had post-secondary education and training.

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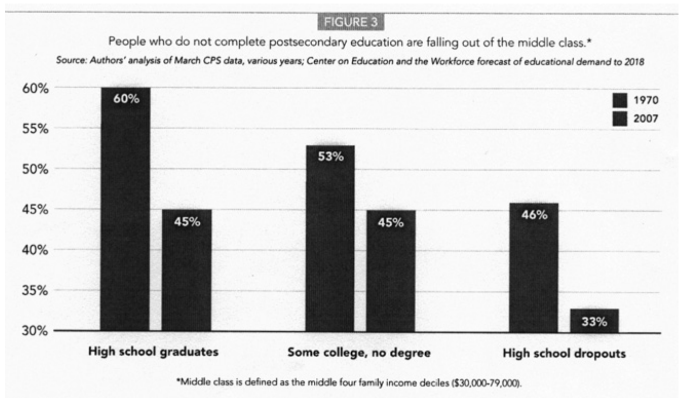
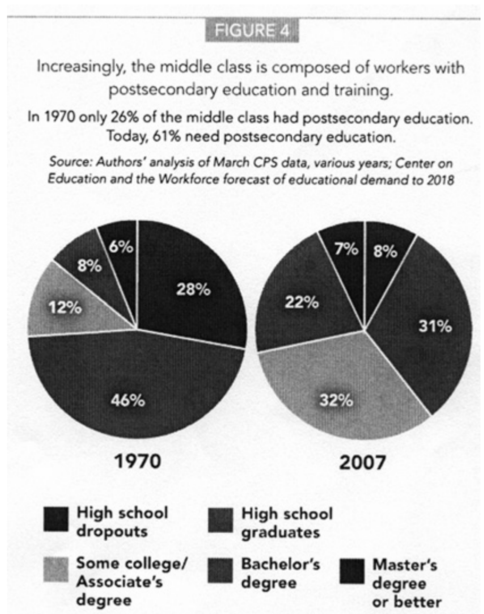
[4] On average, 18 percent of the product components are imported.

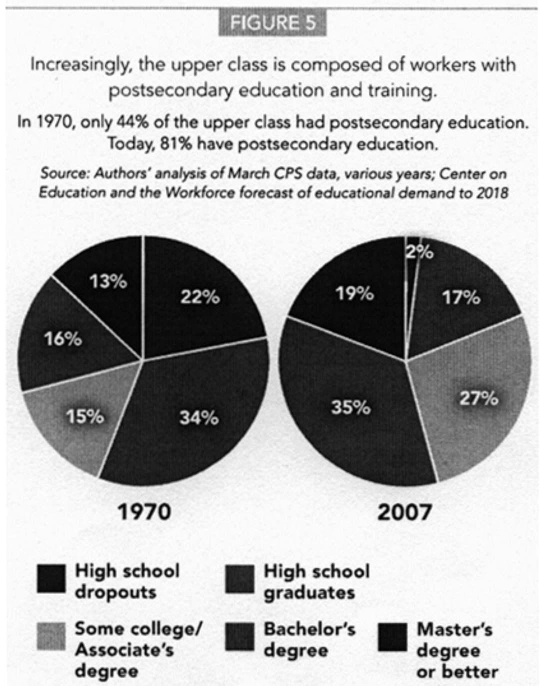
[5] Dropouts, high school graduates and people with some college but no degree increasingly are on the economic down-escalator, falling out of the middle class and into the lower three deciles of family income. In 1970, almost half (46 percent) of high school dropouts were in the middle class. By 2007, the share of dropouts in the middle class had fallen to 33 percent. In 1970, almost 60 percent of high school graduates were in the middle class. By 2007, the share had fallen to 45 percent. In 1970 almost 53 percent of workers with some college, no degree were in the middle class. By 2007, the share had fallen to 45 percent.





Workers with post-secondary education and training are moving into the upper class.[6] That is, the educational composition of the upper class also favors workers with some college or better (Figure 5). In 1970, 44 percent of the upper class had post-secondary education and training. By 2007, 81 percent of upper class workers had post-secondary education and training.

[6] The share of people with Bachelor's degrees in the middle class declined from 47 percent to 38 percent. But the share of people with a Bachelor's in the top three income deciles jumped from 37 percent to 48 percent. Meanwhile, the share of people with Graduate Degrees in the middle class declined from 46 to 30 percent. Clearly, though, they were leaving for higher standards of living, as the share of people with Graduate Degrees in the top three income deciles increased from 41 to 61 percent.



Given the transformation of workers by economic class, post-secondary education and training is no longer just the preferred pathway to middle and upper income classes—it is, increasingly, the only pathway.

TODAY'S CAREER PATHWAYS ARE IN OCCUPATIONS NOT WITHIN INDUSTRIES

Federal, State, and local governments face a dilemma as they formulate economic development strategy because the traditional approach to understanding career pathways starts with an industry-based perspective while careers, and career mobility, are based on occupation. The emphasis on post-secondary preparation for new hires means that workers will tend to be attached more to the occupations they will be filling than to the specialized industries in which they work. The day when people left high school to go to work in the local industry and then worked their way up is disappearing. Starting out, straight from high school, on the loading dock or in the mail room and climbing to the CEO's corner office is no longer an option. People do not go to work in industries any more. They get educated or trained, go to work in occupations, and progress in an occupational hierarchy. Some occupations are tied tightly to particular industries—healthcare occupations for example—but more and more occupations are dispersed broadly across industries. And industries vary widely in how many jobs they create: old-line manufacturing, clearly, is in decline. But even some new industries, such as information services, have only limited hiring potential because they are tech-heavy and can achieve high levels of productivity with relatively few workers. This means governments will need to be selective about how they approach industries and where they deploy scarce development resources.

CONCLUSION: HIGHER EDUCATION IS CRITICAL TO SUCCESS IN THE COMING ECONOMY

As a result of a broad concern about the United States underperforming in post-secondary education, President Barack Obama in February 2009 told a joint session of Congress: "*By 2020, America will once again have the highest proportion of college* *graduates in the world*."[7] Subsequent analysis at the National Center on Higher Education Management Systems (NCHEMS) estimated that achieving the President's goal would require an additional 8.2 million post-secondary graduates by 2020.[8]

At current cost the goal of producing 8.2 million new college graduates would require an increase of $158 billion by 2020 in nominal spending at the State and Federal level. The costs are daunting, nearly $16 billion per year.

The Obama administration has come up with an additional $36 billion for spending on Pell grants in its reform of the post-secondary financing system (SAFRA). This leaves $122 billion outstanding which would have to come from State and local budgets.

We recognize, in the current budget climate, that it will be difficult for States to come up with their share. Ultimately, Federal and State Governments will need to engage post-secondary institutions as partners in finding ways to pay for achieving this goal. Together they must develop reforms that result in both cost-efficient and quality post-secondary education and training programs.

The impending shortage of at least 3 million Associate's degrees or better lends urgency to the questions about the financing of America's college and university system.

Failure to achieve the mix of funding and reform required for the President's goal will not only leave more and more Americans behind—it will damage the Nation's economic future.

And that, quite simply, is something we cannot afford.

APPENDIX

Educational Distribution of Total Jobs (by occupation) in 2018

Occupations	High school dropouts	High school graduates	Some college, no degree	Associate's degree	Bachelor's degree	Master's degree or better	Total
Healthcare Support	316,220	1,650,170	1,316,377	1,015,012	433,370	95,088	4,826,237
Community Services and Arts	41,044	411,231	583,516	526,375	2,520,524	1,126,326	5,209,016
STEM	27,717	729,443	865,555	1,054,172	3,614,642	2,261,768	8,553,297
Healthcare Professional and Technical	—	450,038	610,671	2,161,139	2,924,180	2,667,125	8,813,153
Education	60,302	654,477	825,721	674,515	3,906,200	4,112,993	10,234,208
Managerial and Professional Office	253,580	2,033,003	2,340,385	1,766,664	7,518,784	3,771,595	17,684,011
Food and Personal Services	5,311,606	10,375,799	5,176,370	2,953,944	3,705,516	472,328	27,995,563
Blue Collar	7,122,598	15,322,808	5,805,475	3,664,944	2,387,683	337,899	34,641,407
Sales and Office Support	2,326,477	12,838,226	10,908,550	5,901,593	10,069,661	1,498,611	43,543,118
Total*	15,459,544	44,465,195	28,432,620	19,718,358	37,080,560	16,343,733	161,500,010

Source: Center on Education and the Workforce forecast of educational demand through 2018.

Educational Distribution of Total Jobs (by industry) in 2018

Industries	High school dropouts	High school graduates	Some college, no degree	Associate's degree	Bachelor's degree	Master's degree or better	Total
Wholesale and Retail Trade Services	2,054,180	7,747,315	5,240,566	2,628,735	5,384,497	1,089,876	24,145,169
Professional and Business Services	1,172,360	3,181,083	2,995,082	2,264,671	8,649,452	4,795,087	23,057,735

[7] In July 2009, the President committed to a down payment on reasserting America's global leadership in post-secondary education with a commitment to an increase of 5 million community college graduates.

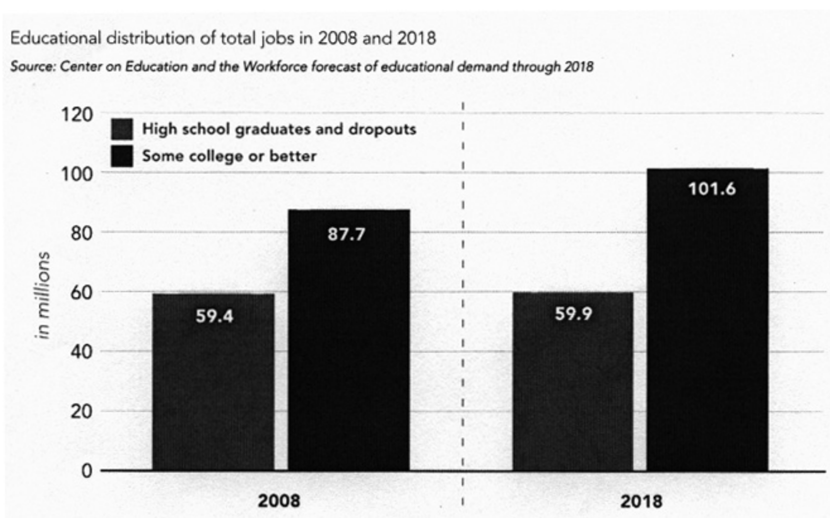
[8] We produced this in collaboration with Dennis Jones and Patrick Kelly.

Educational Distribution of Total Jobs (by industry) in 2018—Continued

Industries	High school dropouts	High school graduates	Some college, no degree	Associate's degree	Bachelor's degree	Master's degree or better	Total
Government and Public Education Services	347,226	3,465,799	4,127,209	3,909,128	7,246,199	2,764,115	21,859,676
Healthcare Services	991,378	4,124,082	3,519,395	3,936,313	5,116,397	2,866,496	20,554,061
Leisure and Hospitality Services	4,029,596	4,635,877	2,937,440	1,351,427	2,690,571	509,823	16,154,733
Manufacturing	1,262,440	4,646,339	1,984,204	1,458,667	2,612,356	1,116,125	13,080,131
Financial Services	217,869	1,780,750	2,220,391	1,177,103	4,506,022	1,441,828	11,343,964
Construction	1,809,463	3,554,175	1,387,382	878,205	837,183	162,861	8,629,269
Transportation and Utilities Services	553,317	2,871,578	1,262,668	768,033	1,049,958	181,151	6,686,704
Personal Services	970,426	2,065,142	1,064,372	914,406	750,046	447,987	6,212,379
Private Education Services	40,041	432,463	366,395	263,122	1,141,766	1,237,942	3,481,728
Information Services	—	291,555	736,215	381,689	1,547,880	503,713	3,461,051
Natural Resources	817,562	1,158,793	281,276	257,506	275,567	92,117	2,882,822
Total*	14,265,858	39,954,951	28,122,595	20,189,005	41,807,893	17,209,121	161,549,423

*The education totals for education categories do not match totally between occupation and industry due to methodological differences. A discussion of the methodology used to generate all forecasts in this document is available at the Center's Web site at cew.georgetown.edu.

Source: Center on Education and the Workforce forecast of educational demand through 2018.



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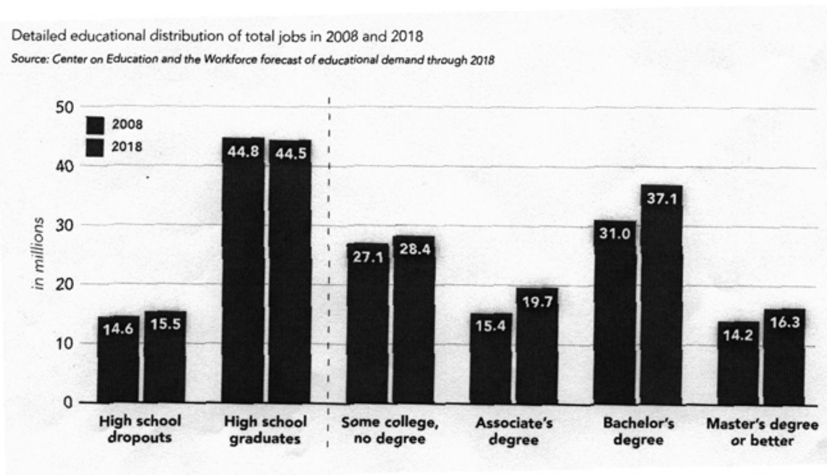

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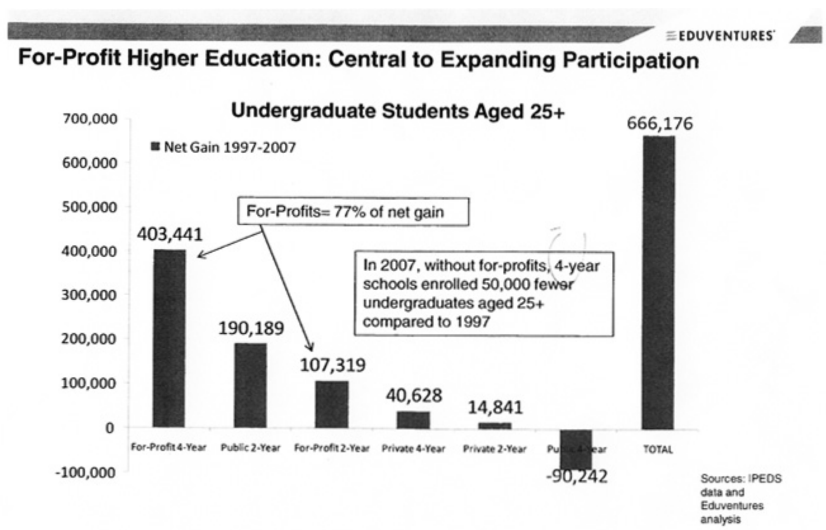

ATTACHMENT 11.—PUBLIC AFFAIRS—CALIFORNIA STATE UNIVERSITY OFFICIALS OUTLINE ENROLLMENT CUTS AND PREVIEW 2010–2011 BUDGET

CSU OUTLINES ENROLLMENT CUTS AND PREVIEW 2010–2011 BUDGET

(NOV. 10, 2009)—Facing a $564 million budget cut for this fiscal year, California State University Chancellor Charles B. Reed provided an update on the drastic measures that the CSU is undertaking to address the deficit including slashing enrollment by more than 40,000 students, as demand to attend the CSU continues to rise.

CSU estimates that it cut 4,000 students in fall 2009, and will see a much larger drop in spring as a result of curtailing enrollment including the elimination of spring admissions. In all, CSU needs to reduce its student numbers by more than 40,000 students in order to match student enrollment with funding received from the State.

"Last year, we declared systemwide impaction and said we were going to reduce enrollment by 10,000 students that we did not receive any funding for by the State," said Reed. "By spring, we will reach that total, and project an even larger enrollment decrease for fall 2010. This reduction in access is the direct result of the almost $600 million that has been cut from our budget. You cannot see a 20 percent drop in revenue and serve the same number of students."

Campuses are currently in the process of receiving applications for admissions in fall 2010, and to date, the CSU has received more than 266,000 applications, a 53 percent increase over the same time last year. Specifically, there has been a 127 percent increase in the number of applications from community college transfers, partially due to the closing of spring admissions that heavily impacts transfer students from community colleges. Freshmen applications are up by about 32 percent over the same time period last year.

"Denying students access to higher education is just about one of the worst things you can do in a recession," said Reed. "The State needs our graduates to enter the workforce and help the State's economic recovery. But, when your budget is cut so drastically, we are left with little choice but to restrict our enrollment."

CSU officials did stress the importance of students applying by November 30, when about half of its campuses will stop accepting applications for all freshmen, and most community college transfer students. Students are also encouraged to apply to the campus in their local service area.

Chancellor Reed also provided a preview of the proposed 2010–2011 budget that the CSU will present to its board of trustees next week. Calling it a "recover and reinvest" budget, CSU is asking the State to restore funding for one-time cuts imposed in 2009–2010 totaling $305 million, as well as an additional $579 million for mandatory cost increases, enrollment growth, compensation increases, and a restoration of the revenues that would have been part of the Compact funding for higher education. The total $884 million increase includes a request for revenue needed for the legislature to "buy out" a 10 percent student fee increase. The board is expected to vote on the budget at its meeting November 17 and forward the request to the Governor and the legislature.

"This is a very ambitious budget in these very challenging times," said Reed, "but it is critical that the State legislature and administration realize the true fiscal needs to run the CSU."

ABOUT THE CALIFORNIA STATE UNIVERSITY

The *California State University* is the largest system of senior higher education in the country, with 23 campuses, approximately 450,000 students and 48,000 faculty and staff. Since the system was created in 1961, it has awarded nearly 2.5 million degrees, about 90,000 annually. Its mission is to provide high-quality, affordable education to meet the ever-changing needs of the people of California. With its commitment to excellence, diversity and innovation, the CSU is the university system that is working for California.

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Table 318. Percentage Distribution of Enrollment and Completion Status of First-Time Post-Secondary Students Starting During the 1995–1996 Academic Year, by Type of Institution and Other Student Characteristics: 2001

Student and institution characteristic	Students starting in 2-year institutions						Students starting in 4-year institutions					
	Highest degree attained				No degree, still enrolled	No degree, not enrolled	Highest degree attained				No degree, still enrolled	No degree, not enrolled
	Total, any degree[1]	Certificate	Associate's	Bachelor's[2]			Total, any degree[1]	Certificate	Associate's	Bachelor's [2]		
1	2	3	4	5	6	7	8	9	10	11	12	13
Total	38.4 (1.7)	11.5 (1.2)	17.3 (1.3)	9.7 (1.1)	16.4 (1.4)	45.2 (1.6)	65.1 (1.0)	2.7 (0.3)	4.0 (0.4)	58.4 (1.2)	14.4 (0.6)	20.5 (0.8)
Male	39.2 (2.4)	10.8 (1.6)	18.7 (1.9)	9.7 (1.5)	18.0 (2.2)	42.8 (2.4)	60.6 (1.4)	2.5 (0.4)	3.6 (0.6)	54.6 (1.5)	16.2 (0.9)	23.2 (1.1)
Female	37.7 (2.2)	12.0 (1.6)	15.9 (1.7)	9.8 (1.4)	14.9 (1.7)	47.4 (2.2)	68.7 (1.3)	2.9 (0.3)	4.3 (0.5)	61.6 (1.4)	12.9 (0.8)	18.4 (1.0)
Age when first enrolled:												
18 years or younger	43.8 (2.3)	7.3 (1.2)	19.4 (2.0)	17.0 (1.9)	17.8 (2.1)	38.4 (2.1)	70.0 (1.0)	1.8 (0.2)	3.4 (0.4)	64.7 (1.1)	13.4 (0.6)	16.6 (0.7)
19 years	38.2 (4.1)	8.2 (2.0)	24.3 (4.0)	5.7 (2.2)	20.9 (3.6)	40.9 (4.0)	57.1 (2.8)	3.3 (0.9)	6.0 (1.3)	47.9 (2.9)	16.4 (2.0)	26.6 (2.3)
20 to 23 years	29.9 (4.2)	13.1 (3.0)	13.0 (3.4)	3.7 (1.6)	20.1 (4.2)	50.0 (4.8)	37.7 (3.8)	8.7 (2.1)	6.7 (2.1)	22.3 (3.0)	20.9 (3.0)	41.4 (3.6)
24 to 29 years	36.5 (4.8)	25.6 (4.6)	8.4 (2.2)	2.5 (1.5)	11.0 (3.5)	52.6 (5.1)	34.4 (5.5)	4.3 (1.8)	7.2 (3.5)	23.0 (4.7)	22.7 (5.8)	42.9 (6.3)
30 years or over	30.6 (5.5)	14.1 (3.8)	14.5 (3.3)	2.0 (1.5)	8.7 (2.4)	60.7 (5.8)	26.1 (4.3)	11.5 (3.5)	4.3 (1.6)	10.3 (2.8)	17.0 (4.2)	56.9 (5.1)
Race/ethnicity:												
White	40.5 (2.0)	10.9 (1.3)	18.2 (1.5)	11.4 (1.6)	16.5 (1.7)	43.0 (2.0)	68.1 (1.1)	2.4 (0.3)	3.8 (0.4)	61.9 (1.3)	12.5 (0.7)	19.4 (0.9)
Black	28.4 (4.2)	16.7 (4.0)	8.5 (2.3)	3.2 (1.3)	13.3 (2.9)	58.3 (4.3)	51.3 (2.6)	4.6 (1.0)	3.2 (0.8)	43.4 (2.8)	20.6 (2.3)	28.2 (2.2)
Hispanic	34.3 (4.8)	11.1 (3.2)	17.8 (3.2)	5.5 (2.3)	18.1 (3.3)	47.6 (4.8)	53.9 (2.3)	3.1 (0.7)	6.8 (1.7)	44.0 (2.4)	20.4 (1.8)	25.7 (2.1)
Asian/Pacific Islander	41.9 (9.2)	11.6 (6.4)	23.0 (8.2)	7.4 (3.7)	21.2 (7.7)	36.9 (8.7)	71.3 (3.1)	0.2 (0.2)	2.0 (0.8)	69.1 (3.1)	13.9 (2.3)	14.8 (2.4)
American Indian/Alaska Native	‡ (†)	‡ (†)	‡ (†)	‡ (†)	‡ (†)	‡ (†)	55.4 (10.6)	‡ (†)	3.7 (3.7)	51.7 (10.7)	26.1 (8.4)	18.5 (6.8)
Highest education level of parents:												
High school diploma or less	36.5 (2.3)	13.5 (1.8)	17.0 (1.9)	6.0 (1.2)	12.4 (1.6)	51.1 (2.4)	52.0 (1.6)	4.1 (0.6)	4.8 (0.6)	43.1 (1.6)	16.5 (1.3)	31.5 (1.5)
Some post-secondary	32.8 (3.3)	10.1 (2.1)	14.3 (2.6)	8.4 (2.0)	19.0 (2.8)	48.2 (2.9)	59.5 (1.9)	3.1 (0.7)	5.4 (1.1)	50.9 (2.1)	16.4 (1.4)	24.2 (1.6)
Bachelor's degree	47.7 (4.2)	9.1 (2.3)	22.4 (3.7)	16.2 (3.2)	18.8 (3.5)	33.5 (3.9)	72.1 (1.5)	1.8 (0.4)	4.0 (0.6)	66.3 (1.5)	13.4 (1.1)	14.5 (1.1)
Advanced degree	45.4 (6.0)	3.1 (2.0)	17.2 (4.4)	25.2 (5.5)	25.2 (5.4)	29.4 (6.0)	76.5 (1.7)	1.2 (0.3)	1.4 (0.3)	73.9 (1.7)	11.7 (1.2)	11.8 (1.2)
Dependency status when first enrolled:												
Dependent	42.1 (2.2)	8.2 (1.2)	20.1 (1.8)	13.8 (1.7)	18.3 (1.9)	39.6 (2.1)	68.0 (1.0)	2.1 (0.2)	3.6 (0.4)	62.1 (1.2)	14.0 (0.6)	18.1 (0.7)
Independent	32.9 (3.1)	17.6 (2.4)	12.3 (1.9)	3.0 (0.9)	13.8 (2.4)	53.4 (3.5)	35.9 (2.9)	8.8 (1.7)	6.4 (1.6)	20.6 (2.3)	19.1 (2.5)	45.0 (3.2)
Dependent student family income in 1994:												
Less than $25,000	43.0 (3.8)	10.9 (2.6)	24.5 (3.4)	7.6 (2.1)	14.3 (2.6)	42.7 (3.5)	58.8 (1.8)	3.4 (0.7)	5.1 (1.0)	50.3 (2.1)	18.6 (1.5)	22.6 (1.5)

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Table 318. Percentage Distribution of Enrollment and Completion Status of First-Time Post-Secondary Students Starting During the 1995–1996 Academic Year, by Type of Institution and Other Student Characteristics: 2001

Student and institution characteristic	Students starting in 2-year institutions						Students starting in 4-year institutions					
	Highest degree attained				No degree, still enrolled	No degree, not enrolled	Highest degree attained				No degree, still enrolled	No degree, not enrolled
	Total, any degree[1]	Certificate	Associate's	Bachelor's[2]			Total, any degree[1]	Certificate	Associate's	Bachelor's [2]		
$25,000 to $44,999	41.2 (4.5)	10.5 (2.3)	16.4 (2.9)	14.3 (2.7)	19.1 (3.0)	39.6 (3.6)	61.7 (1.7)	2.3 (0.4)	4.4 (0.8)	55.0 (1.7)	15.1 (1.3)	23.1 (1.4)
$45,000 to $69,999	40.2 (3.8)	5.3 (1.8)	22.1 (3.2)	12.8 (2.5)	19.3 (3.5)	40.5 (4.0)	69.1 (1.6)	1.7 (0.4)	3.7 (0.7)	63.6 (1.7)	13.2 (1.0)	17.7 (1.3)
$70,000 or more	44.7 (5.5)	4.5 (1.8)	15.8 (3.6)	24.4 (4.5)	22.1 (4.2)	33.2 (4.8)	77.4 (1.3)	1.6 (0.4)	2.0 (0.4)	73.8 (1.5)	10.7 (1.0)	11.9 (0.9)
Timing of post-secondary enrollment:												
Did not delay[3]	43.9 (2.3)	7.0 (1.1)	20.9 (2.0)	15.9 (1.8)	18.4 (2.0)	37.7 (2.1)	69.2 (1.0)	1.9 (0.2)	3.3 (0.4)	64.0 (1.1)	13.7 (0.6)	17.1 (0.7)
Delayed entry	32.8 (2.7)	15.6 (2.0)	13.7 (1.8)	3.5 (1.0)	14.9 (2.0)	52.3 (2.8)	45.0 (2.2)	6.6 (1.0)	7.0 (1.3)	31.4 (2.1)	18.0 (1.6)	37.0 (2.2)
Attendance status when first enrolled:												
Full-time	47.3 (2.4)	10.2 (1.4)	21.3 (1.9)	15.8 (2.1)	15.9 (2.0)	36.8 (2.3)	69.3 (1.0)	1.9 (0.2)	4.0 (0.4)	63.3 (1.2)	12.7 (0.6)	18.0 (0.8)
Part-time	29.5 (3.2)	13.9 (2.7)	12.2 (2.3)	3.4 (1.0)	15.6 (2.4)	54.9 (3.4)	33.4 (3.2)	7.3 (2.0)	2.1 (0.8)	23.9 (3.3)	27.3 (3.0)	39.3 (3.4)
Intensity of enrollment through 2001:												
Always part-time	13.2 (2.9)	11.5 (2.8)	1.7 (0.8)	# (†)	13.3 (3.0)	73.4 (3.8)	10.3 (2.9)	9.7 (2.9)	0.6 (0.6)	# (†)	12.9 (3.8)	76.8 (4.1)
Mixed	42.3 (2.5)	12.6 (1.7)	20.8 (2.0)	8.9 (1.3)	21.7 (2.1)	36.0 (2.2)	51.7 (1.5)	4.4 (0.6)	5.5 (0.6)	41.8 (1.6)	26.6 (1.3)	21.7 (1.1)
Always full-time	49.5 (3.2)	9.3 (1.4)	22.0 (2.8)	18.1 (3.1)	9.1 (1.8)	41.4 (3.1)	74.2 (1.1)	1.5 (0.2)	3.3 (0.5)	69.4 (1.2)	8.1 (0.6)	17.8 (0.9)
Degree goal at first institution:												
Certificate	45.2 (5.1)	38.4 (5.3)	6.2 (2.3)	0.7 (0.4)	6.8 (2.5)	48.0 (4.8)	37.7 (7.0)	16.1 (6.2)	4.2 (7.5)	7.5 (3.0)	19.4 (6.5)	42.8 (6.7)
Associate's degree	40.9 (2.3)	8.7 (1.3)	24.7 (2.1)	7.5 (1.4)	15.6 (2.0)	43.5 (2.3)	52.6 (4.2)	7.3 (2.4)	24.7 (3.7)	20.7 (3.3)	8.9 (2.3)	38.5 (4.2)
Bachelor's degree	40.3[4] (3.7)	6.0[4] (1.9)	11.7[4] (2.4)	22.6[4] (3.3)	21.9[4] (3.5)	37.8[4] (3.4)	67.6 (1.0)	2.1 (0.3)	2.7 (0.3)	62.9 (1.1)	14.2 (0.6)	18.2 (0.7)
Worked while enrolled 1995–1996:												
Did not work	43.0 (3.0)	13.9 (2.3)	21.5 (2.8)	7.6 (1.9)	10.4 (2.5)	46.6 (3.1)	71.1 (1.3)	2.0 (0.4)	3.7 (0.7)	65.3 (1.6)	11.9 (0.8)	17.0 (1.1)
Worked part time	44.7 (2.6)	8.5 (1.5)	20.9 (2.1)	15.2 (2.0)	18.4 (2.4)	36.9 (2.3)	65.0 (1.3)	2.3 (0.4)	4.0 (0.4)	58.6 (1.4)	14.7 (0.8)	20.3 (1.0)
Worked full time	27.2 (2.6)	14.3 (2.2)	9.6 (1.5)	3.4 (0.9)	17.0 (2.5)	55.8 (2.9)	41.7 (2.6)	7.1 (1.3)	4.2 (1.1)	30.5 (2.5)	21.7 (2.2)	36.6 (2.5)
Control of first institution:												
Public	36.7 (1.8)	10.1 (1.3)	16.4 (1.4)	10.3 (1.3)	17.4 (1.6)	45.9 (1.7)	60.5 (1.2)	2.8 (0.3)	4.4 (0.6)	53.3 (1.4)	17.4 (0.8)	22.2 (1.0)
Private, not for profit	58.9 (5.4)	19.3 (4.6)	27.8 (3.9)	11.8 (3.3)	8.4 (2.4)	32.7 (4.6)	73.6 (1.7)	1.8 (0.3)	2.8 (0.5)	68.9 (2.0)	9.3 (0.8)	17.1 (1.3)
Private, for profit	55.6 (3.2)	27.8 (3.9)	25.8 (3.9)	2.0 (0.8)	4.3 (1.2)	40.0 (3.4)	52.8 (10.5)	17.9 (7.2)	14.9 (6.0)	20.0 (5.1)	11.1 (3.1)	36.1 (8.6)
Socioeconomic status in 1995–1996 [5]:												
Not disadvantaged	41.7 (2.8)	8.9 (1.8)	18.1 (2.1)	14.6 (2.0)	20.4 (2.7)	38.0 (2.7)	71.4 (1.1)	2.0 (0.3)	3.3 (0.4)	66.1 (1.3)	12.3 (0.7)	16.3 (0.8)
Minimally disadvantaged	33.9 (2.4)	12.8 (1.7)	14.9 (1.8)	6.2 (1.4)	13.1 (1.6)	53.0 (2.7)	59.8 (1.6)	3.7 (0.6)	5.4 (0.7)	50.8 (1.7)	16.4 (1.2)	23.8 (1.3)

Moderately or highly disadvantaged	43.7 (3.6)	14.6 (3.0)	21.6 (3.4)	7.5 (1.9)	14.5 (2.7)	41.8 (3.7)	47.1 (2.0)	3.7 (0.8)	3.8 (0.8)	39.6 (2.1)	19.5 (1.9)	33.4 (2.1)

† = Not applicable.
# = Rounds to zero.
‡ = Reporting standards not met.
[1] Includes a small percentage of students who had attained a degree and were still enrolled. Includes recipients of degrees not shown separately.
[2] Includes a small percentage of students who had attained an advanced degree.
[3] Includes students with a standard high school diploma who enrolled in post-secondary education in the same year as their graduation.
[4] Includes students whose goal was to transfer to a 4-year institution.
[5] Determined by a socioeconomic diversity index that includes parental income as a percentage of the 1994 Federal poverty level, parental education, and the proportion of the student body at the student's high school that was eligible for free or reduced-price lunch.

Note: Data reflect completion and enrollment status by spring 2001 of first-time post-secondary students starting in academic year 1995–1996. Race categories exclude persons of Hispanic ethnicity. Detail may not sum to totals because of rounding. Standard errors appear in parentheses.

Source: U.S. Department of Education, National Center for Education Statistics, 1996/01 Beginning Post-Secondary Students Longitudinal Study (BPS:96/01). (This table was prepared in August).

ATTACHMENT 16

[November 25, 2008]

THE CHRONICLE OF HIGHER EDUCATION—GRADUATE STUDENTS

NACUBO AND COMMONFUND TO TEAM UP ON ENDOWMENT REPORT

The two organizations that now compile and analyze data on university endowments plan to announce today that they are combining their efforts to produce a single report.

The new report, which will be a joint project of the National Association of College and University Business Officers and the Commonfund Institute, will cover the 2009 fiscal year and be released in January 2010.

Nacubo's report on endowments for the 2008 fiscal year, due out in late January, will be the last one conducted in partnership with TIAA-CREF, the giant pension and investment company.

The Commonfund Institute now publishes an annual "Benchmarks Study of Educational Endowments" that includes information on endowments of colleges, independent schools, and other educational institutions. The institute said it would continue to collect data on such entities, but publish those statistics in a separate report.

Officials of both organizations said the change would eliminate the need for institutions to respond to two similar surveys. About 800 institutions now reply to each one, with a rate of duplication of 66 percent. Officials hope to have about 1,000 institutions participate in the combined survey.—*Goldie Blumenstyk*

[January 24, 2008]

ENDOWMENT SPENDING RATE DROPS SLIGHTLY

At a time that some lawmakers are pushing colleges to spend more of their endowments, data being released today suggest that the opposite was the trend last year. The average spending rate on college endowments in 2007 was 4.6 percent, the lowest since 1999 and 0.5 percentage points lower than the high point of the last decade, 5.1 percent in 2002 and 2003.

For the wealthiest colleges, the spending rate was even lower. Colleges with endowments larger than $500 million spent on average only 4.4 percent in 2007. For colleges with endowments greater than $500 million but less than $1 billion, that's the lowest rate since 1999, and for colleges with endowments greater than $1 billion, that's the lowest rate since 2001.

The figures come from the annual endowment report of the National Association of College and University Business Officers. The report found that the average rate of return of the 785 colleges in the study was 17.2 percent. As is typically the case, the wealthier institutions saw the largest gains. The average returns for those in the billion-dollar plus category were 21.3 percent last year, while those with endowments up to $25 million saw a rate of return of only 14.1 percent.

Those at the very top saw astronomical gains. Harvard's endowment grew by just under 20 percent, to $34.6 billion. If you took just the *gain* in Harvard's endowment in 2007 ($5.7 billion), that sum alone would be larger than the endowments of all but 15 universities. Number 16, Washington University in St. Louis, has an endowment of $5.6 billion. Harvard's gains alone are more than the combined endowments of every historically black college in the country (and plenty of other categories of college, too). Even within the group of national research universities, Harvard and a few other institutions are in a completely different financial league from most others. If you added the endowments of Johns Hopkins University, Cornell University, Duke University and the University of Chicago, you wouldn't equal the total of either Harvard or Yale University, which is in second at $22.5 billion.

The release of the annual report on endowments is both miserably timed and beautifully timed, from the perspective of those with large endowments. The timing is poor because there are plenty of figures that will buttress the arguments being made that colleges are exceptionally wealthy and should be spending much more of their money. The timing is ideal—in a somewhat odd way—because a development that endowment managers hate to see (sharp declines in the stock market) backs up one of their main points: that endowments shouldn't be pressured to spend more in good years because they need the money for tight years.

The data on endowment spend rates show a gradual decline over the last 5 years.

Average Endowment Spending Rates, 2003–2007

Endowment Assets	2007 [In percent]	2006 [In percent]	2005 [In percent]	2004 [In percent]	2003 [In percent]
Greater than $1 billion	4.4	4.5	4.8	5.2	5.3
Greater than $500 million to $1 billion	4.4	4.5	4.7	5.0	5.2
Greater than $100 million to $500 million	4.6	4.6	4.7	5.0	5.2
Greater than $50 million to $100 million	4.8	4.7	4.8	4.9	5.3
Greater than $25 million to $50 million	4.8	4.7	4.7	4.7	4.9
Up to $25 million	4.6	4.7	4.7	4.5	4.8
All	4.6	4.7	4.7	4.9	5.1

John Walda, president of NACUBO, said that the declines this year in spending rates are largely because so many colleges saw large increases in endowment earnings. "It takes a while to catch up, and to direct money into programs that they weren't spending before," he said. The many colleges that are significantly increasing spending on financial aid this year, Walda said, are generally doing so in part by increasing their spending rates.

Further, Walda said that "the focus shouldn't be on what the spend rate is from 1 year to the next or the value of an endowment from 1 year to the next, but the value over time and over a 10-year period." He added: "You don't set a spend rate based on 1 year's investment results. You arrive at a spend rate as a matter of policy so you can maintain value."

Those arguments are generally accepted by college leaders, but not by some prominent critics. Lynne Munson, an adjunct research fellow at the Center for College Affordability and Productivity, is working on a book on endowment hoarding, and she has *written here* and elsewhere that colleges should spend more now to cut tuition and in some cases to eliminate it.

"Even though many schools continue to get better and better at managing their endowments, they haven't thought about sharing this tremendous wealth," she said, arguing that the wealthiest institutions should become free. She noted that Harvard's much-discussed shift in financial aid policies will cost the university about $22 million a year—hardly enough to make a dent in the $5 billion-plus coming in from endowment earnings and gifts. Munson called Harvard's aid plans "little more than a PR stunt."

Walda said he was concerned that the public and journalists were paying too much attention to Harvard. He said that the 76 colleges with endowments of at least $1 billion shouldn't be used to set policy for everyone else. Most institutions have far more limited resources and can't afford to take as much risk as do wealthier universities, he said.

While the higher education lobbying groups are lining up to oppose any effort by Congress to push colleges to spend more of their endowments, some institutions that serve low-income students—and do so with small endowments—say that they don't have much sympathy for the idea that Ivy League institutions need to be protected to spend less.

Philander Smith College is a historically black institution in Arkansas, with an endowment of about $14.5 million. Its president, Walter M. Kimbrough, said that the college typically spends between 4 and 5 percent of its endowment a year—a proportion similar to that used at the wealthiest institutions. But Kimbrough noted that his college doesn't have professional money managers and can't afford to take much risk, so his endowment is typically earning 5 to 7 percent a year. So he's spending most (and some years all) of his endowment growth.

"I have to squeeze out every bit I can for my students, so I'm not going to have a strict policy. I spend what I need to," he said. With 70 percent of his students eligible for Pell Grants, a year when Federal aid spending is flat is going to be a year he has to spend more, or he would lose students, he said.

Kimbrough said he understands the principles that college endowments should be saved for rainy days, and that the market can never be a sure thing. But from the perspective of an institution without much of an endowment, he said it's hard to understand why others aren't spending more.

"When you have successive years of earning double-digit increases, 15 percent and above, you can't spend 5 percent?" he asked, noting a figure some critics say should be a minimum. "There isn't a substantive reason why those institutions can't spend 5 percent."

Imagine what might happen if colleges with mega-endowments gave some of that money to Pell Grants for use anywhere, Kimbrough said. While the idea may seem unrealistic, he said there comes a point when enough money should be enough. "There's a point where you should say: They have plenty of money. They don't need any more. Don't give them any more. There isn't a greater good any more."

Over all, the 1-year returns have been exceptionally good for the wealthiest colleges, especially in the last year. But Walda noted that taking a 10-year perspective, the returns are healthy but not as spectacular.

Returns by Endowment Size Over 1, 3, 5 and 10 years

Endowment Assets	1-Year Return [In percent]	3-Year Return [In percent]	5-Year Return [In percent]	10-Year Return [In percent]
Greater than $1 billion	21.3	16.4	13.9	11.1
Greater than $500 million to $1 billion	19.3	14.2	12.3	9.5
Greater than $100 million to $500 million	18.0	13.1	11.5	8.5
Greater than $50 million to $100 million	16.7	11.9	10.8	7.9
Greater than $25 million to $50 million	15.9	10.7	9.8	7.3
Up to $25 million	14.1	9.7	8.8	6.7
All	17.2	12.4	11.1	8.6

The data continue to show the impact of wealthier colleges' ability to invest with riskier strategies, which may also have the highest potential payoff. Generally, wealthier colleges have larger shares of their endowments in hedge funds, private equity and venture capital—and smaller shares in fixed income and domestic equity. Walda said he expected that the current market downturn would probably prompt strategy shifts at some institutions, but he said it was too early to tell exactly what they would be.

The NACUBO data on individual colleges show endowment growth, but not rates of return. Endowment growth includes earnings and gifts, and takes away spending. Not every college participates in the NACUBO survey, although generally the wealthiest institutions do. So it is possible that in some of the subcategories noted below that other colleges would be in the lists had they participated in the survey. The rank figure refers to the colleges' ranks among all survey participants. So Williams College, first among liberal arts colleges, is 33 among all institutions.

Among the top institutions, there was relatively little change, with the very top remaining the same and some institutions moving up or down a few spots. In the liberal arts category, Williams and Pomona Colleges displaced Grinnell College from its recent position on the top of the list.

Top 20 Endowments

Rank	Institution	2007 Endowment	1-Year Change [In percent]
1.	Harvard U.	$34,634,906,000	+19.8
2.	Yale U.	$22,530,200,000	+25.0
3.	Stanford U.	$17,164,836,000	+21.9
4.	Princeton U.	$15,787,200,000	+21.0
5.	U. of Texas System	$15,613,672,000	+18.0
6.	Massachussetts Inst. of Technology	$9,980,410,000	+19.3
7.	Columbia U.	$7,149,803,000	+20.4
8.	U. of Michigan	$7,089,830,000	+25.4
9.	U. of Pennsylvania	$6,635,187,000	+24.9
10.	Texas A&M U. System	$6,590,300,000	+16.8
11.	Northwestern U.	$6,503,292,000	+26.5
12.	U. of California	$6,439,436,000	+16.2
13.	U. of Chicago	$6,204,189,000	+27.5
14.	U. of Notre Dame	$5,976,973,000	+34.7
15.	Duke U.	$5,910,280,000	+31.4
16.	Washington U. in St. Louis	$5,567,843,000	+18.9
17.	Emory U.	$5,561,743,000	+14.2
18.	Cornell U.	$5,424,733,000	+25.5
19.	Rice U.	$4,669,544,000	+17.1
20.	U. of Virginia	$4,370,209,000	+20.8

Top 10 Liberal Arts College Endowments

Rank	College	2007 Endowment	1-Year Change [In percent]
33.	Williams College	$1,892,055,000	+29.4
38.	Pomona College	$1,760,902,000	+20.8
40.	Grinnell College	$1,718,313,000	+16.7
42.	Amherst College	$1,662,377,000	+24.3
43.	Wellesley College	$1,656,565,000	+17.3
50.	Swarthmore College	$1,441,232,000	+15.7
53.	Smith College	$1,360,966,000	+17.7
68.	Berea College	$1,102,272,000	+16.2
84.	Middlebury College	$936,354,000	+20.7
87.	Vassar College	$,869,122,000	+17.2

Top 5 Canadian University Endowments

Rank	College	2007 Endowment (U.S. $)	1-Year Change [In percent]
37.	U. of Toronto	$1,763,764,000	+24.7
75.	U. of British Columbia	$1,013,532,000	+31.2
88.	McGill U.	$863,405,000	+18.3
99.	U. of Alberta	$722,539,000	+29.6
122.	Queen's U.	$614,739,000	+22.5

Top 5 Historically Black College Endowments

Rank	College	2007 Endowment	1-Year Change [In percent]
138.	Howard U.	$523,690,000	+23.5
189.	Spelman College	$340,261,000	+16.7
223.	Hampton U.	$256,990,000	+18.1
433.	Meharry Medical College	$78,421,000	+19.5
502.	Morehouse School of Medicine	$56,385,000	+22.3

Top 5 Community College Endowments

Rank	College	2007 Endowment	1-Year Change [In percent]
462.	Valencia CC (Florida)	$68,004,000	+19.4
612.	Florida CC at Jacksonville	$32,923,000	+35.9
623.	Harrisburg Area CC (Pennsylvania)	$30,563,000	+10.6
642.	Sinclair CC (Ohio)	$27,690,000	+17.3
644.	Kentucky Community and Technical College System	$27,422,000	+29.3

ATTACHMENT 17

[Washington Times, April 12, 2010]

COMMUNITY COLLEGES ENJOY ATTENTION BUT NEED MONEY

(By Eric Gorski, Associated Press)

Politicians and policymakers are lavishing unprecedented attention on community colleges, promoting them as engines to train workers in the recession and boost the country's college graduation rates.

Where rhetoric meets reality on campus, you'll find people like Tania DeLeon, a student at Folsom Lake College in California who has trouble getting into the classes she wants, must shuttle between two campuses 45 minutes apart and is spending spring break earning a paycheck so she can pay for gas and graduate on time.

Grappling with soaring enrollment and plummeting State support, community colleges are grateful for the higher profile but disappointed that money has yet to materialize to help them keep up with demand, let alone meet ambitious Obama administration goals to make the United States the global leader in college graduation rates again by 2020.

"It's a difficult, challenging time for us," said George Boggs, president and chief executive officer of the American Association of Community Colleges. "But in the longer-term view, we've never seen the image of community colleges as high as it is right now. Overall, I'm optimistic for the future."

No longer the afterthought of higher education, the Nation's 1,200 community, technical and junior colleges enroll more than 6 million students—almost half the Nation's college population. Public colleges' open-door policies and low fees draw many low-income, first-generation, immigrant and Hispanic students.

The economic downturn has pressured schools as well as their students, most of whom work long hours. Sinking tax revenues at State and local levels have forced public colleges to cut courses or schedule them around the clock, slash summer sessions, eliminate academic programs and even restrict enrollment.

In Detroit, record demand prompted the Wayne County Community College District to cap student enrollment this spring for the first time in its 40-year history. Louisiana's community and technical colleges, facing a 4.5 percent State budget cut, have slashed 100 academic programs in the past year.

A survey of 128 community college systems released last week found that 52 percent reported reductions in their operating budgets this year, a slight improvement over last year's grim numbers. But those facing cuts face steeper ones: The number of campuses with cuts exceeding 10 percent more than doubled.

The crunch leaves little money for remedial education reform, counseling to better prepare students for college's challenges and other innovations to improve completion rates. Just 35 percent of community college entrants earn a certificate or an associate or bachelor's degree within 6 years, estimates show.

"You put all these factors together, it's sort of a perfect storm," said Michael Kirst, professor emeritus of education and business administration at Stanford University. "One would predict our graduation rates will decline, not increase, from the community colleges. We'll move backwards."

Consider the challenges facing Miss DeLeon, who, like many other community college students, is trying to become the first in her family to graduate from college.

When she started at Folsom Lake College outside Sacramento in 2007, Miss DeLeon had no problem finding courses. She finished school by midday and went to work. Then the budget crisis struck California.

"Now I'm taking a class that ends at 10 o'clock at night," she said.

Miss DeLeon commuted between two campuses in the Los Rios Community College system—California's second largest—to take the courses she needed to finish on time. Next month, Miss DeLeon will graduate and transfer to California State University at Sacramento to pursue a career in juvenile justice.

The picture is even bleaker for some schools that rely on local as well as State tax dollars.

Montgomery College in Maryland, renowned for its engineering program, is facing a proposed 12 percent cut in county money and $14.5 million less than it requested—the cost of operating one of its three campuses.

"Everyone talks about jobs, jobs, jobs," interim President Hercules Pinkney said. "Well, we're the ones training the workforce. Hopefully, that argument will win the day."

The timing couldn't be worse coming off a record fall enrollment of 26,000, State budget cuts and proposed tuition increases.

Community colleges received their latest lesson in economic and political realities recently when President Obama signed legislation overhauling the Federal student loan program.

The law, a centerpiece of Mr. Obama's education agenda, strips banks of their role as middlemen in the loan business and puts the government in charge, saving an estimated $61 million over 10 years.

The House version approved last fall called for community colleges to receive $10 billion to help fulfill the White House's American Graduation Initiative, providing an infusion of Federal cash for job training, building projects and initiatives to get more students out the door with degrees or certificates.

But because the projected savings from axing the bank subsidies were less than anticipated, community colleges instead will get only $2 billion for job training alone.

Most of the money from the overhaul will go to expand the maximum size of Pell grants for needy students. Additional money set aside for Hispanic-serving institutions will benefit community colleges.

Frank Chong, the U.S. Department of Education's deputy assistant secretary for community colleges, said the $2 billion is "something of a down payment" on the graduation initiative.

"We need to use those funds to move the cause forward," said Mr. Chong, former president of Laney College, the flagship of California's Peralta Community College District. "We know our work is not done yet."

For now, community colleges are doing what they've always done: more with less. One case in point is Northern Virginia Community College, the setting for Mr. Obama's bill-signing ceremony for the student loan initiative.

The school has experienced a 23 percent cut in State funding and 24 percent enrollment growth in the past 3 years. Yet it has expanded online offerings to better combine electronic learning with classroom instruction and used its world language program to attract international students, who pay higher tuition.

"A significant portion of higher education is hunkered down, trying to wait out the storm," said college President Robert Templin. "We've taken the approach that while things will get better, they will never get back to the way they were. We're going to have to find new ways to do our work."

DEVRY INC.,
DOWNERS GROVE, IL 60515–5799,
July 22, 2010.

Hon. TOM HARKIN, *Chairman,*
Committee on Health, Education, Labor, and Pensions,
428 Dirksen Senate Office Building,
Washington, DC 20510.

Hon. MICHAEL B. ENZI, *Ranking Member,*
Committee on Health, Education, Labor, and Pensions,
835 Hart Senate Office Building,
Washington, DC 20510.

DEAR CHAIRMAN HARKIN AND RANKING MEMBER ENZI: As per our previous communication on July 15, 2010, below please find the answer to Chairman Harkin's question 4(d):

Question 1. What was the number of students who enrolled between October 1, 2008 and August 1, 2009 but were no longer enrolled in September 2009?

Answer 1. Of those undergraduate students counted in 4(c), the number who had not graduated and were not enrolled in summer 2009 is provided below for DeVry University and Chamberlain College of Nursing. The number who had not completed their program and were not enrolled as of July 1, 2009 is provided for Apollo College and Western Career College.

Apollo College: 4,294
Chamberlain College of Nursing: 1,436
DeVry University (U.S.): 33,745
Western Career College: 2,580

Thank you again for the opportunity to provide this information to the Senate Committee. Should the need arise for further information; please contact me directly at (630) 515–3146 or at stparrot@devry.edu.

Sincerely,

SHARON THOMAS PARROTT,
Senior Vice President, Government and
Regulatory Affairs Chief Compliance Officer.

RESPONSE TO QUESTIONS OF SENATOR HARKIN, SENATOR ENZI, SENATOR DODD, SENATOR CASEY, SENATOR HAGAN, SENATOR BROWN, AND SENATOR COBURN, M.D.* BY STEVEN EISMAN

QUESTION OF SENATOR HARKIN

Question 1. In exploring comparisons between the subprime mortgage crisis and the business model used by large for-profit schools, it was discussed that student loans, unlike other consumer debt may not be discharged in bankruptcy except in cases of extreme hardship. You were then asked if a home mortgage could be discharged in bankruptcy and responded that you did not believe it could. My understanding is that if a borrower files for bankruptcy and stops paying his or her mortgage, he or she loses her house. Is that your understanding as well?

Answer 1. Yes. A mortgage is not dischargeable in bankruptcy but a borrower can default and lose his house. Generally, a lender will not go after the borrower any longer.

QUESTIONS OF SENATOR ENZI

Question 1. Mr. Eisman, I understand you are a hedge fund manager and that you and your hedge fund profited from short selling mortgage investments during the subprime crisis. What financial interests do you, your firm and its current clients have in the topic of this hearing? Please explain, including whether your fund has or will take short positions in any for-profit educational investments. Are you willing to commit to this committee that you will not take short positions in for-profit educational investments?

Answer 1. I am a hedge fund manger who has the ability to go long and short stocks. My research has led me to believe that the for-profit education industry is loading its students up with too much debt. And that, in many cases, the education provided by the for-profit industry is poor. I am short several companies in this industry under an assumption that changes that can and should be made will hurt the profitability of the industry. I have been very transparent that I am short in this industry and I will not make any commitment that I will not take short positions in this sector.

Question 2. Have you done a similar analysis of student debt, default rates, graduation rates and placement rates at other institutions of higher education? Specifically, have you compared your findings regarding for-profit schools to community colleges? If so, what did your research reveal?

Answer 2. Tuition and fees at for-profit institutions averaged $14,174 in 2008–2009. During the same years, the average in-state tuition and fees at public 4-yr institutions was $7,020 per year and the annual tuition and fees at public 2-yr colleges (community colleges) was $2,544 per year.

For-profit students borrow much more than traditional 4-year and community college students. Eighty-eight percent of students in the for-profit sector took out Stafford Loans in 2007–2008, compared to 42 percent of public 4-year students, and only 10 percent of public 2-year college students.

For-profit students also borrow substantially more on a per student basis. According to data from the College Board, the debt incurred from attending a 2-yr program at a community college is about $4,550; the debt incurred from attending a for-profit 2-yr program is approximately $20,100. The debt incurred from attending a for-profit institution is roughly 5x the debt incurred from attending a community college for both associates degrees and certificate programs.

Distribution of Undergraduate Debt by Sector and Type of Degree or Certificate, 2007–2008

Institution Type	$0 [In percent]	$0–10K [In percent]	$10K–20K [In percent]	$20K–30K [In percent]	$30K–40K [In percent]	$40K+ [In percent]	Average Debt
Bachelor's Degree:							
Public 4-yr	38	16	19	14	6	6	$12,850
Private 4-yr	28	10	19	17	10	15	$20,1000
FOR-PROFIT	4	4	12	23	33	24	$33,700
Associate's Degree:							
Public 2-yr (comm college)	62	23	9	3	2	1	$4,550
FOR-PROFIT	2	22	34	23	13	6	$20,100
Certificate:							
Public 2-yr (comm college)	70	21	7	1	1	1	$2,825
FOR-PROFIT	100	46	34	8	2	1	$10,400

Source: College Board Trends in Student Aid 2009.

According to the Department of Education's recent release of 3-yr trial cohort default data, for-profit institutional default rates are higher than every other institution type.

*The views expressed herein and at the June 24, 2010 hearing are exclusively those of Steven Eisman and do not necessarily reflect those of FrontPoint Partners LLC or its affiliates.

Institution Type	2-Year default rate [In percent]	3-Year default rate [In percent]
Private 2-Yr	7.7	14.7
Private 4-Yr	3.7	6.3
Public 2-Yr (comm college)	9.9	16.2
Public 4-Yr	4.4	7.1
FOR PROFIT	11.0	21.2

In addition, recent data released by the Department of Education shows that the 15-year default rate (closer to true lifetime rates) for community college students is 31 percent, while the 15-year default rate for for-profit students is 40 percent. This also mirrors the Department's view of expected lifetime default rates for for-profit versus community college students. For community college students entering repayment in 2007, the DOE expects 31.6 percent of students to default; for the for-profit students of the same year (2007), the DOE expects 47 percent of the students to enter default. With the way current default rates are trending, we expect that the DOE's lifetime default expectations for the for-profit student classes of 2008 and 2009 will be north of 50 percent.

Institutional category	Cohort Yr 2003	Cohort Yr 2004	Cohort Yr 2005	Cohort Yr 2006	Cohort Yr 2007
	Budget lifetime default rate [In percent]	Budget lifetime default rate [In percent]	Budget lifetime default rate [In percent]	Budget lifetime default rate [In percent]	Budget lifetime default rate [In percent]
2-Yr Nonprofit	26.4	27.4	29.3	31.2	31.6
2-Yr Proprietary	42.5	42.5	42.3	43.5	47.0
4-Yr Freshman & Sophomores	19.3	20.5	21.9	22.2	22.0
4-Yr Juniors & Seniors	8.2	8.5	9.8	11.6	12.3
Graduate Students	3.4	3.7	4.5	5.9	6.3
Overall	11.5	12.2	13.2	14.6	15.3

Source: http://ifap.ed.gov/eannouncements/attachments/121409EACDRlifetimerateattachment2ratechartPPD.pdf.

QUESTION OF SENATOR DODD

Question 1. Mr. Eisman, to your knowledge, are there other Federal funding streams that are such a large percentage of another industry's profit? Do you know what percentage of these funds are spent on executive compensation? Are these funding streams equitable to the spending practices and investments of this sector?

Answer 1. The Defense Industry receives as a large a percentage of its revenues and profits directly from the Federal Government. In 2009, companies such as Lockheed Martin, Raytheon, and Northrop Grumman received 85 percent, 88 percent and 91 percent of their revenues (respectively) directly from the U.S. Government. In 2009, Lockheed earned a 9.9 percent operating margin (pre-tax profits) on U.S. Government contracts. Raytheon earned a 12.4 percent operating margin and Northrop earned a 7.4 percent operating margin. This basically means that defense companies earns about 7 to 12 cents of pre-tax profit on every dollar of revenue received from the U.S. government. This pales in comparison to some of the larger for-profit education companies such as Apollo Group, ITT Technical Institute and Strayer Education, who in 2009 reported 28 percent, 37 percent, and 34 percent operating margins, or between 28 cents and 37 cents of pre-tax profits on every dollar of revenue. Education companies earn roughly 3 times as much profit as Defense companies on every U.S. government dollar they receive.

In terms of compensation, the table below shows the top 5 executives at major for-profit institutions earn more than 7 times as much as the top 5 executives at major Defense Companies on every dollar of revenue received from the U.S. Government.

	Defense companies			Education companies		
	Lockheed	Raytheon	Northrup	Apollo Group	ITT Tech	Corinthian
2009 Sales	$45,189	$24,881	$33,755	$3,974	$1,319	$1,308
Percent of revenue from U.S. Govt.	85%	88%	91%	89%	85%	89%
2009 Top 5 total compensation	$52.9	$34.8	$41.8	$34.7	$14.4	$11.2
Percent of 2009 Sales	0.12%	0.14%	0.12%	0.87%	1.09%	0.86%
Defense company avg. percent sales	0.13%	....	....	....	....	....
For-profit company avg. percent sales	0.94%	....	....	....	....	....
For-profit vs. Defense comp.	**7.4 x**	....	....	....	....	....

Source: Company financials and proxy statements. Sales and compensation dollars in millions.

In 2009, the top 5 executives at the largest for-profit education company (Apollo Group) earned roughly the same amount as the top 5 executives from Raytheon, or $35 million. In 2009, Raytheon reported $25 billion in revenues and Apollo reported $4 billion. Therefore, Apollo executives took home more than 6 times as much in total compensation on every dollar of revenue received; revenue which is predominantly from the U.S. government.

QUESTIONS OF SENATOR CASEY

Question 1. The President has set the goal of the United States leading the world in college graduates by the year 2020. In your opinion, what is the role of for-profit colleges in trying to achieve this goal?

Answer 1. It is not my place to comment on the role of for-profit education in the larger scheme of education. I believe that is the appropriate role for policymakers and lawmakers. I am simply trying to bring out the problems of the for-profit education industry and how it might be fixed.

Question 2. What are for-profit schools currently required to report to the Department of Education around graduation rates and placement rates? How are placement rates tracked?

Answer 2. For-profit schools are not required to report either graduation or placement rates. They must maintain certain placement rates (typically >70 percent) to remain in compliance with their accrediting bodies, but there are no legal requirements for graduation or placement rates.

For-profit schools report graduation rates of 1st time 1st borrower students to the DOE (those are true "traditional" 1st time college students, who have no prior college experience or loans). Those students however, only make up a fraction of total students at the for-profit schools, so it is very difficult to know what the true graduation rates are. For placements, some schools disclose graduate placement rates (although I don't believe they are required to) yet the numbers are not independently verified. There are no formal requirements or official mechanisms to track actual graduation and placement rates that we are aware of.

Question 3. What, if any, statutory or regulatory changes should be made to strengthen the rules governing for-profit colleges? Are the penalties strong enough to hold these institutions accountable?

Answer 3. The problem with the for-profit education industry, in my view, is that risk and reward have been divorced. The for-profit education industry receives close to 90 percent of its revenue from Federal loans and grants but it bears none of the risk of default. That risk is borne by the government, the student and the taxpayer. Risk sharing is appropriate. In the power point presentation I submitted to the committee along with my original testimony, I outlined how such a risk sharing would work. Essentially, the industry should take the first loss position up to a certain level chosen by Congress and/or the Department of Education. That way, all losses up to a certain percentage are borne solely by the industry. Because the companies would be financially penalized for recruiting students that they didn't believe would ultimately succeed, a measure of this sort would force companies to focus on and improve outcomes. These schools are profit-motivated operations; to keep their profits (or avoid losses from defaults), this measure would change the behavior of the industry by making it accountable for the product/service it is delivering. This should ultimately bring default rates down dramatically.

QUESTIONS OF SENATOR HAGAN

Question 1. Mr. Eisman, in your testimony you give an example of a school that has roughly a 40 percent operating margin—as compared to the 7–12 percent margin other companies that receive major government contracts.

Can you give us some perspective on how the proprietary education sector's profits compare to other major industries?

Answer 1. Please see answer to Senator Dodd's question above.

In addition to that answer, below is a table of the Dow 30 companies 2009 operating margins versus for-profit education companies.

Ticker	Name	2009 OM [In percent]
MMM UN Equity	3M Co	20.8
AA UN Equity	Alcoa Inc.	−5.2
AXP UN Equity	American Express Co.	10.6
T UN Equity	AT&T Inc.	17.5
BAC UN Equity	Bank of America Corp.	10.1
BA UN Equity	Boeing Co/The	3.1
CAT UN Equity	Caterpillar Inc.	1.8
CVX UN Equity	Chevron Corp.	9.0
CSCO UW Equity	Cisco Systems Inc.	20.5
KO UN Equity	Coca-Cola Co/The	26.6
DD UN Equity	DuPont	6.1
XOM UN Equity	Exxon Mobil Corp.	9.5
GE UN Equity	General Electric Co.	6.5
HPQ UN Equity	Hewlitt Packard Co.	30.5
HD UN Equity	Home Depot Inc.	7.3
INTC UW Equity	Intel Corp.	16.9
IBM UN Equity	International Business Machines Corp.	17.8
JNJ UN Equity	Johnson & Johnson	26.9
JPM UN Equity	JPMorgan Chase & Co.	18.2
KFT UN Equity	Kraft Foods Inc.	13.5
MCD UN Equity	McDonald's Corp.	29.8
MRK UN Equity	Merck & Co. Inc.	25.6
MSFT UW Equity	Microsoft Corp.	35.4
PFE UN Equity	Pfizer Inc.	31.0
PG UN Equity	Procter & Gamble Co./The	20.4
TRV UN Equity	Travelers Cos Inc./The	20.6
UTX UN Equity	United Technologies Corp.	12.2
VZ UN Equity	Verizon Communications Inc.	18.1
WMT UN Equity	Walmart Stores, Inc.	5.9
DIS UN Equity	Walt Disney Co./The	15.8
	Average Operating Margins	**16.1**
	Apollo Group	28.2
	Corinthian Colleges	9.5
	Career Education Corporation	12.3
	Capella Education Company	19.1
	DeVry Inc.	16.7
	ITT Technical Institute	37.1
	Strayer University	33.7
	Average Operating Margins	**22.3**

Question 2. Mr. Eisman, you have spent a great deal of time studying the for-profit education industry.

That said, could you elaborate on parallels you see between the oversight of subprime lenders and the oversight and accountability system that deals with for-profit colleges?

Answer 2. Some subprime lending occurred at banks and their activities were overseen by Federal regulators. But much subprime lending occurred at non-bank financials, and they were regulated by State authorities, if at all.

The for-profit education industry is partially regulated by the Department of Education. However the accreditation process is performed by independent accrediting bodies.

There are two kinds of accreditation—national and regional. Accreditation bodies are non-governmental, non-profit peer-reviewing groups. Schools must earn and maintain proper accreditation to remain eligible for title IV programs. The relationship of the for-profit education industry and the national accrediting boards is, in my view, similar to the relationship between the rating agencies and investment banks. There, Wall Street paid the rating agencies for ratings on subprime securitizations that turned out to be overly optimistic. Here, the industry, we believe, controls the national accrediting bodies by actually sitting on the boards of those very same institutions.

Historically, most for-profit schools are nationally accredited but national accreditation holds less value than regional accreditation. The latest trend of for-profit institutions is to acquire the dearly coveted Regional Accreditation through the outright purchase of small, financially distressed non-profit institutions and then put that school on-line. In March 2005, BPI acquired the regionally accredited Franciscan University of the Prairies and renamed it Ashford University. On the date of purchase, Franciscan (now Ashford) had 312 students. BPI took that school online and at the end of 2009 it had 54,000 students.

Question 3. At the end of fiscal year 2010, there are estimated to be over $700 billion in outstanding, federally backed student loans. Taxpayers are backing almost all of those loans.

I realize that this question can apply equally to non-profit institutions as well, but since we're talking about the for-profit industry today, could any of the witnesses tell me what specific, quantitative measurements we have across the industry to tell us what the taxpayers are getting for all that money? What sort of industry-wide performance measures are available to help us better understand the performance of institutions that survive on the largess of the taxpayer?

Answer 3. There are virtually no independently verifiably performance measures that exist to determine the quality of the education delivered by for-profit education companies. While some companies report graduation and placement rates and starting salary data, all of these numbers are internally generated within the companies and are not verifiable. They do not paint an accurate picture of quality. Cohort default rates help to highlight some degree of quality—generally schools with higher defaults are perceived to be of lower quality (in our view). But default numbers are also misleading due to their short timeframe and the widespread use of forbearances and deferrals to bring default numbers down. We have even seen instances of schools paying down student's government loans to reduce reported default rates. In sum, we don't believe there are any reliable measures to measure the quality of programs at for-profit institutions and have no means of gauging the return taxpayers are getting on their investment.

Question 4. Some say that the for-profit sector is highly regulated with oversight from the U.S. Department of Education, State licensure agencies and accrediting bodies. Others may disagree, citing that much more needs to be done.

That said, what are your thoughts on how can we better align the goals of each of these agencies so that everyone is demanding the highest quality outcomes for every institution?

Answer 4. No answer.

Question 5. Many of you in your testimony mention the "90/10 rule," the provision that requires proprietary institutions of higher education to have at least 10 percent of the institution's revenues from sources that are not derived from funds provided through Federal financial aid.

Is there a way to more accurately track the percentage of title IV dollars that schools receive?

Answer 5. The Department of Education already tracks gross disbursements to students, by institution. They would need to factor in title IV returns and refunds on an annual basis and match that with annual gross disbursements to get to a net title IV disbursement number. I am not sure if the Department tracks returns and refunds by school.

The problem with 90/10 is that it is a company-reported figure (similar to graduation rates, placement rates and other measures of quality). There is no way to independently verify the accuracy of any of these company-reported metrics. What would help is to have the government report whether each company is using a net title IV disbursement figure.

Question 6. As you know, the purpose of this hearing is for all of us to get a better sense of how well the for-profit education industry is serving students. We know that there are good actors as well as bad actors in the for-profit education industry.

For those of us who want to ensure that anyone who has the drive and desire to get a high-quality education is able to do so, how do you suggest we work together to better identify those schools that are getting the job done and those that aren't?

Answer 6. The way to ultimately identify good from bad players in our view is entirely outcomes-based. Schools that overcharge and under deliver (the majority of schools we have researched), will often have higher than average defaults as a result of high tuition, high drop-out rates and poor placement rates for their graduates. Therefore, defaults are critical in understanding the quality of an institution.

In addition, we believe that it is critical to look at the percent of revenues spent on education. Of the 12 for-profit schools we have done research on, not one spends more than 50 percent of their revenue on education. Across 12 schools, the average percent of revenues spent on educational-related items is 37 percent. A few of the schools such as Grand Canyon and Bridgepoint actually spend more money on marketing and advertising (33 percent and 32 percent of sales respectively) then they do on education.

QUESTION OF SENATOR BROWN

Question 1. Your proposal about adding an element of risk sharing to the for-profit sector in higher education is intriguing. Would you set up a risk sharing requirement based on size or loan volume? Would you base it on the ratio of student aid revenue to other revenue? Would there be a requirement for a reserve fund to reimburse the Federal Government for loan losses? How would you design a risk sharing program?

Answer 1. See answer above.

QUESTIONS OF SENATOR COBURN

Question 1. Are institutions of higher education clients of any of the funds within FrontPoint Financial Services Fund? If so, please provide a list of the institutions of higher education that FrontPoint Partners currently represents.

Answer 1. No Answer.

Question 2. Is there an inherent conflict of interest for a hedge fund to testify before Congress on an industry it is potentially selling short? Please explain.

Answer 2. I believe in full disclosure. I am short companies in this industry. But I believe my arguments should stand or fall on their own merit. In 2007, I was short the mortgage sector, the rating agencies and the investment banks. I was quite vocal that I was short and for the reasons why I was short. Being short did not make those arguments right or wrong; it just turned out I was right. The same research process that led me to short the financial services sector has led me to short the for-profit education industry.

Question 3. In your testimony, you allege that the for-profit college sector is piling debt onto students who cannot afford to repay their debt obligations. However, you fail to discuss the numerous repayment options available to help Federal student loan borrowers fulfill their debt obligations. How do repayment options such as the Income-based Repayment (IBR) program—an option that allows borrowers to scale their student loan repayment amounts to their income, with a total payment due of $0 for the lowest income earners—factor into your analysis? Given that the IBR program discharges *all* outstanding Federal student loan debt for these borrowers after 20 years, are taxpayers not already on the hook for a potentially substantial amount of student loans that borrowers will never repay?

Answer 3. Our analysis does take into account programs like IBR. IBR has been around for a while and to-date, most schools have admitted that using IBR has relatively no impact on overall default rates. We do not know why using IBR has proven ineffective at reducing defaults but we assume that the historical impact of IBR will continue going forward.

Question 4. Concerning student loan cohort default rates (both the current 2-year and draft 3-year rates), how do the cohort default rates of non-profit and private 2-year colleges and minority serving institutions compare to those of for-profit institutions? How do the graduation rates of these institutions compare to those of for-profit colleges?

Answer 4. See Enzi question #2 answer concerning default rates by institution-type. Graduation rates are not reported by institution type and so I do not know how the rates compare.

Question 5. Given the current law sanctions associated with high cohort default rates, is it the fiduciary responsibility of for-profit institutions to maintain low default rates?

Answer 5. I don't know if I would call it a fiduciary responsibility. But the industry is careful to keep its cohort default rates below those levels. We believe schools manage cohort defaults through the extensive use of forbearance and deferral options to push defaults out past the regulated 2-year window. Schools face no financial or regulatory penalties for operating high default rates so long as they meet the 2-year threshold requirement.

Question 6. In your opinion, how would Wall Street react to the Gainful Employment regulations that have been contemplated by the U.S. Department of Education?

Answer 6. It is always impossible to predict how the market will react because no one ever knows what is and is not priced. In my view, the stocks are down from their year highs because of increased regulation by the DOE and the potential for the imposition of gainful employment, as well as the potential for new legislation. My fundamental research indicates that if GE goes through as originally proposed many schools will have to cut tuition and that would cause margins to decline.

Question 7. Do nonprofit and public colleges and universities use the Federal student aid programs to suit their business models? Are for-profit colleges the only sector of higher education that capitalize on the Federal student aid programs?

Answer 7. No Answer.

Question 8. Does it concern you that, as a country, we have created a student aid system that has helped fuel tuition costs? According to the National Center for Public Policy and Higher Education, from 1982 to 2007, tuition and fees increased 439 percent while median family income rose 147 percent. Does the overall framework work in your mind, or has the government created a system that helps drive up tuition and that invites waste, fraud and abuse into all sectors of higher education?

Answer 8. I cannot speak to waste and fraud throughout the entire higher education system because I have not researched the topic.

Question 9. What responsibility do post-secondary students, as adult consumers, have in taking their futures into their own hands and researching their post-secondary education and training options?

Answer 9. No Answer.

[Whereupon, at 1:06 p.m., the hearing was adjourned.]

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