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BRIDGEPOINT EDUCATION, INC.: A CASE STUDY IN FOR-PROFIT EDUCATION AND OVERSIGHT

HEARING

OF THE

COMMITTEE ON HEALTH, EDUCATION, LABOR, AND PENSIONS

UNITED STATES SENATE

ONE HUNDRED TWELFTH CONGRESS

FIRST SESSION

ON

EXAMINING BRIDGEPOINT EDUCATION, INC., FOCUSING ON A CASE STUDY IN FOR-PROFIT EDUCATION AND OVERSIGHT

MARCH 10, 2011

Printed for the use of the Committee on Health, Education, Labor, and Pensions

Available via the World Wide Web: http://www.gpo.gov/fdsys/

U.S. GOVERNMENT PRINTING OFFICE

81–200 PDF WASHINGTON : 2013

For sale by the Superintendent of Documents, U.S. Government Printing Office
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BRIDGEPOINT EDUCATION, INC.: A CASE STUDY IN FOR-PROFIT EDUCATION AND OVERSIGHT

THURSDAY, MARCH 10, 2011

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

The committee met, pursuant to notice, at 10:02 a.m., in Room SD–430, Dirksen Senate Office Building, Hon. Tom Harkin, chairman of the committee, presiding.

Present: Senators Harkin, Hagan, Merkley, Blumenthal, Enzi, and Isakson.

OPENING STATEMENT OF SENATOR HARKIN

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

This is the committee's fourth hearing focusing on the Federal investment in for-profit higher education companies and whether the $26 billion in annual taxpayer money flowing to this sector is a good value for students and taxpayers.

Now I intend to make quite a lengthy opening statement with charts, and I certainly will yield whatever time I take to my Ranking Member to use whatever time that he would like to take also, just so that we are fair in terms of the time.

We have previously taken a look at the specific aspects of this sector, including recruiting practices, placement, accreditation issues, student outcomes, and, most recently, the for-profit industry's targeting of veterans and GI educational benefits. These were in previous hearings.

Today's hearing is our first opportunity to bring all of these pieces together with a case study of a single for-profit education company, Bridgepoint Education, Inc. This will give us a window into the key elements of the for-profit education business model and the implications of that model for students and taxpayers.

Today's hearing will examine not only Bridgepoint, but also the regulatory environment that allowed a school of just 300 students to grow into big business with a student body of 78,000 students in just 4 years, capturing more than $600 million in Federal subsidies annually.

All institutions of higher education that receive Federal student aid are regulated by at least three different entities—the Federal Government, the State in which the institution operates, and an accrediting body recognized by the Secretary of Education. To-

gether, these three bodies are referred to as "the triad" and are collectively tasked with ensuring that the schools are meeting basic guarantees of academic quality and fiscal soundness and are complying with pertinent State and Federal laws.

With us today are representatives from each of the three bodies with responsibility for regulatory oversight of Bridgepoint. On our first panel is Kathleen Tighe, the Inspector General of the Department of Education. The Department of Education enforces basic Federal standards for schools that participate in the Federal student aid programs. These standards range from prohibitions on paying recruiters on a per student basis, to prohibitions on having more than 30 percent of a school's loan recipients defaulting within 3 years of leaving college. The Inspector General's office recently found Bridgepoint in violation of several of these rules.

On our second panel, we will hear from Sylvia Manning, executive director of the Higher Learning Commission of the North Central Association of Colleges and Schools—HLC, for short. HLC is the accreditor of Bridgepoint's two colleges: Ashford University and the University of the Rockies.

Institutions that want to receive Federal student aid must be accredited by 1 of 19 organizations recognized by the Secretary of Education. Accreditors are private, nonprofit organizations of schools that organize peer reviews of institutions of higher education conducted by volunteers within its membership. The organizations are funded by membership fees.

The role of accreditors is to evaluate the academic quality of institutions of higher education. For more than 50 years, the Federal Government has relied on the judgment of accreditors to ensure that schools eligible for taxpayer support meet minimum standards of quality.

The third part of the triad is State government, which provide colleges with the legal authorization to operate within their borders. The State authorization role is very clear when it comes to public, State-run universities like the University of Iowa or Iowa State University. These institutions have public boards of trustees, receive large amounts of State dollars, and have corresponding State scrutiny.

However, very few States provide serious scrutiny of for-profit colleges operating within their borders. Many allow these institutions to operate with only a basic business license. That, I believe, is a missed opportunity for oversight because State regulators have the best knowledge of local communities and are closest to the for-profit institutions that have a significant impact on citizens.

We will hear today from Arlie Willems, recently retired from the Iowa Department of Education, about her review of the Bridgepoint teaching programs.

Now, for Bridgepoint. Bridgepoint Education, Inc., is run by CEO Andrew Clark. I had, of course, invited Mr. Clark here today to provide his company an opportunity to be a part of the hearing, and I had even moved the hearing date to accommodate concerns his company raised. But Mr. Clark decided not to join us.

In 2005, Bridgepoint Education, Inc., a newly formed corporation run by at least four executives formerly with the University of Phoenix, received seed money from Wall Street private equity giant

Warburg Pincus. They used the money to purchase a regionally accredited but struggling religious school, which had already been approved to offer some distance learning programs.

The small, religious, nonprofit school, Mount St. Clare College of Clinton, IA, had an enrollment of just 332 students. Between 2005 and 2010, Bridgepoint grew its enrollment to 77,892 students, becoming a behemoth, with 99 percent of students taking classes exclusively online.

This first chart gives you an idea of how this small entity grew from nonexistence, sort of like the "big bang" theory. They didn't exist at this point in time and then, all of a sudden, almost 78,000 students.

Despite this radical reinvention as a giant, for-profit, overwhelmingly online institution, Bridgepoint—which I will point out is 65 percent owned by Warburg Pincus—prefers to market itself as a longstanding, traditional 4-year institution. Here is the description they gave to U.S. News and World Report.

> "Founded in 1918, Ashford University is committed to providing accessible, affordable, innovative, high-quality degree programs to its campus, online, and accelerated students."

This statement is totally misleading.

Now let me read what they said to their investors. That is what they said to their students and prospective students. Here is what they said to their investors.

> "One of the biggest advantages we have enjoyed as an organization has been the fact that we started this company ourselves 6 years ago."

Not founded in 1918.

"We did not inherit any of the legacy systems that you often do as I know when you come into other organizations." Which one is correct? Talk about duplicity.

This committee's analysis of records provided by Bridgepoint is that for students who enrolled in 2008 and 2009, as of September 2010, 84 percent of 2-year students and 63 percent of 4-year students had already dropped out of school. That is what this chart shows.

This is the 63 percent. This is the bachelor's program. Sixty-three percent had withdrawn. And on the associate, the 2-year program, 84.4 percent had withdrawn. These are students, mind you, who signed up in 2008 and 2009, and we wanted to know where they were in 2010. Sixty-three percent already gone here. Eighty-four percent in the associate's already gone.

These dismal outcomes should be deeply disturbing to all American taxpayers. But remarkably, the withdrawal of nearly two-thirds of its students in less than 2 years doesn't seem to trouble Bridgepoint's executives in the least. Instead, they are basking in the applause of Wall Street for growing the company's student enrollment and increasing profits, increasing profits, from $81 million in 2009 to $216 million in 2010.

This is profit. It went from $81 million in 2009 to $216 million in 2010. In the world of for-profit higher education, spectacular business success is possible despite an equally spectacular record of student failure.

This is Bridgepoint's profits in 2007, I am sorry, $3.9 million in profits. This last year, $216 million in profits in just 4 years. In just 4 years, $3 million to $216 million.

Now here is why Bridgepoint's record is a matter of necessary and urgent concern to this committee. Chart 6, in 2009, this company received 86.5 percent of its revenues directly from the Federal Government, including $4.15 million in military educational benefits, and not including an additional $500,000, almost $500,000 from the State of Iowa.

So Bridgepoint is a private company, but it is almost entirely dependent on public funds. The profits from this enterprise go into private pockets, but the losses are borne by the public—by students, who leave with a mountain of debt, but no degree, and taxpayers, whose investment is often squandered through Pell grants.

Now, to understand how Bridgepoint has been able to grow so fast, let us take a look at how it spends the revenue brought in from various Federal and State sources. In 2010, Bridgepoint retained 30 percent of its revenues as profit—30.3 percent. That is, the profit was $216 million, as we saw. The company spent another 30 percent on recruiting, marketing. That includes advertising, paying for names of prospective students, called "leads," paying the salaries of the extensive staff of salespeople who are known as "enrollment advisers." Enrollment advisers, these are the people that go out and recruit these students.

That left just 40 percent of revenues for spending on everything else—instructional expenses, student services, faculty salaries, administrative expenses, and, of course, executive compensation, which ate up another $36.7 million just to the top 5 executives. Let me repeat, $36.7 million of the other 40 percent went just to the top 5 executives.

Meanwhile, students are paying at least $46,000 to $50,000 for tuition and fees for a 4-year program. As for a comparison, at the University of Iowa, it is about $24,500 for those 4 years. Of course, if you don't actually provide much in the way of student services, the actual education piece doesn't cost your company very much.

And this chart, as you can see, while Bridgepoint employs 1,703 recruitment sales staff—you know, those, what did they call them, "enrollment advisers"—1,703. They have plans, we got from their internal documents, to add at least 500 more this year.

Got that? Seventeen hundred and three people to go out and get students, but the company employs just one person charged with job placement for all 77,892 students. One person.

Mr. Clark himself told an interviewer, "We don't provide them with job placement. They are using education to further their career within the company they are working for."

I think this statement would come as a surprise to the many students at Bridgepoint who are unemployed or are looking to enter a totally new field than the one they are in right now. They may be working at McDonald's, and they want to do something else.

So given what we know about the withdrawal rates and the lack of quality education services, it shouldn't come as a surprise to see what has happened to instructional costs per student as Bridgepoint has rapidly grown the student body at Ashford University. As

you can see, this is a chart that shows what Bridgepoint spends on instruction on a per student basis.

When they purchased Mount St. Clare, run by the nuns, the college was spending about $5,000 per student on instruction. That went down last year to $700 per student in 2009. In fact, internal Bridgepoint documents show that spending on faculty costs alone plummeted from $1,133 per student in 2007 to $377 in 2008, in just 1 year. Their own internal documents, spending on faculty alone plummeted from $1,133 per student to $377 per student in just 1 year.

I asked committee staff to compare this to per student spending at other Iowa schools. Here are the comparisons with the University of Iowa—Bridgepoint is on the left in the blue—the University of Iowa, Iowa State, and Kirkwood Community College in terms of just showing a perspective on how much money is spent by these schools on instruction. So I think that sort of kind of speaks for itself.

As I said, last year, Bridgepoint's top 5 executives took home combined compensation of $36.7 million. The CEO alone received compensation of $20.5 million in 2009. That is more than 20 times the compensation of the president of Harvard University.

And while they were making all this money, mind you, not off of making a product that someone is going to sell competing with somebody else. Now they are not making software. They are not making hardware. They are not making a better pencil or a pen or anything else. This is all public money. It is coming from the taxpayers directly and from student loans guaranteed by the Federal Government.

And Bridgepoint, while they were making all of this—Bridgepoint left in its wake tens of thousands of drop-outs burdened with a mountain of debt. And so, I guess you could say that 86 percent of Mr. Clark's $20 million, $17.4 million, came from U.S. taxpayers. I think this is a scam, an absolute scam.

Data reviewed by this committee paints a picture of a company, and perhaps an industry, that is premised on aggressively recruiting largely low-income, disadvantaged students. Why? That is the best business model because the poorer the students you can get, the bigger Pell grant. The more in student loans you get, the poorer students you get, poorer people you get.

And these are, many times, kids who got through high school with a D average or a C average, but they get recruited heavily. And I have other documents to show how recruiters push the pain points and how they recruit these students—I spoke about this on the floor of the Senate—to get these kids to sign up. And they handle all the paperwork. They handle all the Pell grants, all the requests for student loans.

So they aggressively recruit largely low-income, disadvantaged students. They collect their Federal grants and loans, even as the vast majority, as we have seen, drop out. And then, their executives and shareholders get a lot of money, get a lot of money.

We listened in on the last investor call including Warburg Pincus and Ashford. Nothing about students and how they are doing. Profit, how much profit did they make? And congratulating each other on how much profit they made.

Now I am not against making a profit. But when this is done only basically 86 to 90 percent of it from taxpayers' money or going after the military—it is both taxpayers' money—and disadvantaged students, who then drop out with a mountain of debt, I get disturbed. I think we all ought to be disturbed by that.

It is very closely akin to the subprime. A lot of the subprime mortgages happened because people were chasing the American dream. They wanted a home, and we wanted to promote people to have homes, their own homes. But a few very bright individuals figured out how to take that and securitize it and get derivatives on it and make a ton of money.

Well, I think the same thing is happening here in the for-profit industry. For-profit schools in the past have done a good job in many ways, in providing good instruction for technical schools. Most of them started out as welding schools and truck driving schools and secretarial schools and things like that. But now, because of the Federal Pell grants and the amount of loans, a few bright people have figured out how to turn this and how to make it into a huge profit-making industry.

The difference between the subprime and this is at least in the subprime mortgage crisis you could walk away from your home. You could walk away from it. These students with these debts cannot walk away from them. They will be around their necks until they pay them off. They won't be able to get other loans. They won't be able to get credit ratings, and they can't walk away from it.

So, from a strictly moneymaking perspective, what I have described is a highly successful model. But I must say, from an educational perspective and from the perspective of public moneys and disadvantaged students, from an ethical perspective, I think it is a deeply disturbing model.

I would like to take this opportunity to introduce into the record a number of documents provided to the committee by Bridgepoint and by Higher Learning Commission that we will be using today.

[The information referred to is retained in committee files and may be accessed at *http://help.senate.gov*.]

The CHAIRMAN. I would also like to take this opportunity to enter into the record over 700—here they are. I have over 700 student complaints, student complaints received by Bridgepoint.

[The information referred to is retained in committee files and may be accessed at *http://help.senate.gov*.]

We will hear more about these complaints later in the hearing. But let me say they paint a very grim picture of the student experience at Ashford University, owned by Bridgepoint.

Now I have taken a lot of time. As I said, in all fairness, I will yield to whatever time my Ranking Member would like to have.

Senator Enzi.

STATEMENT OF SENATOR ENZI

Senator ENZI. Thank you, Mr. Chairman.

I noted from your first slide that there must be a tremendous demand for nontraditional education that they are able to pull that many students in. And also, there must be some problems with

their financial literacy if they are spending $50,000 instead of $24,000.

So I appreciate those points in the information. But throughout these hearings, I have been consistently requesting that we examine the issues you have identified objectively and across all sectors of higher education—issues such as high default rates, rising tuition, low graduation rates, poor student outcomes. These are problems for nonprofit and for public institutions of higher education, and they deserve the attention of this committee.

Unfortunately, my request has been ignored, and the result has been three of the most biased and poorly executed hearings in my nearly 15 years in the Senate. The highlight of the first hearing on June 24 was the inflammatory testimony of a Wall Street investor who possessed no expertise in education.

Many questioned the propriety of his appearing as a witness, given his possible financial interest in the for-profit sector. Since then, documents obtained through the Freedom of Information Act requested by the congressional watchdog Citizens for Responsibility and Ethics in Washington (CREW) have provided credible information that this witness was not only attempting to influence Department of Education rulemaking but may have improperly received information from department officials regarding this rulemaking.

I ask unanimous consent to submit to the record the Citizens for Responsibility and Ethics in Washington's March 1, 2001, letter to Secretary Duncan.

The CHAIRMAN. Without objection.

[The information referenced above may be found in additional material.]

Senator ENZI. At the second hearing on August 4, we heard testimony regarding a GAO "secret shopper" investigation, which you requested and pressed for. That testimony was ultimately found to contain so many factual errors and mischaracterizations that it was substantially revised and reissued.

Since then, the GAO has reassigned the managing director responsible for the investigation, reorganized the entire Forensic Audit and Special Investigations Unit, and is now the subject of a House Oversight and Government Reform Committee investigation.

I ask unanimous consent to submit to the record the revised October 4 GAO testimony and redlined summary of the revisions, as well as GAO's memo detailing the reorganization of the FSI unit.

The CHAIRMAN. Without objection.

[The information referenced above may be found in additional material.]

Senator ENZI. At the same hearing, we heard testimony from a witness who recounted his experience as a recruiter at a for-profit school. Since then, credible information has been provided to both the majority and minority staff that suggests this witness may have given false testimony to the committee.

I ask unanimous consent to submit to the record the December 17, 2010, letter from Mark Paoletta regarding the testimony of Joshua Pruyn.

The CHAIRMAN. Without objection.

[The information referenced above may be found in additional material.]

Senator ENZI. Unfortunately, it appears this hearing is no different. In a March 1, 2011, letter to Bridgepoint regarding their appearance at this hearing, your staff director states that,

> "You should be aware that it would be made clear at the hearing that your failure to appear is based on nothing other than your own apparent unwillingness to testify regarding how a company that receives over 86 percent of its revenue from the Federal Government saw a 1-year increase in profit from $81 million to $216 million, but also has student withdrawal rates of at least 65 to 75 percent."

Notwithstanding my concern that your staff would send such a heavy-handed letter on behalf of the committee, it disturbs me that the majority would indicate its willingness to intentionally mischaracterize a desired witness's legitimate reasons for declining an invitation to testify.

As this letter to your staff from Bridgepoint's attorney shows, Bridgepoint had expressed to you in detail its reservations about appearing before it had fully responded to the Inspector General's audit and while the Department of Education's process is ongoing.

I ask unanimous consent to submit to the record the March 1, 2011, letter from the HELP Committee majority staff director, Daniel Smith, and the March 7, 2011, response from Bridgepoint's CEO, Andrew Clark.

The CHAIRMAN. Without objection.

[The information referenced above may be found in additional material.]

Senator ENZI. Make no mistake, the Inspector General's findings trouble me as much as they do you. These are potentially serious violations of the law, which need to be pursued. However, a process is in place to objectively review these matters without interference from Congress.

This hearing is an agenda-driven rush to judgment. It is a cart before the horse, a verdict before the trial. The first step in this process is an IG audit, but a final decision by the Secretary will not be made until Bridgepoint has had a chance to respond to the IG's findings. Bridgepoint is currently in the process of responding, and it deserves to do so without our interference.

This process has worked countless times before, and I trust that Secretary Duncan will take the appropriate actions. I see no reason why we have reached this point. There are many problems in higher education that have to be addressed. Most exist throughout all sectors of higher education. And yes, many are more acute for the for-profit sector.

Had you come to us at the outset, I am quite certain we could have found common ground to address these issues in an objective and bipartisan successful way. That tradition of bipartisanship and respect for the views of all Senators is what has made this one of the most productive committees over the past decade. Unfortunately, that tradition has been abandoned with these hearings, and I fear we will do lasting damage to this committee's ability to conduct credible oversight and investigations.

As I have said repeatedly, I do not condone any inappropriate behavior. If a school is improperly using Federal money, it needs to be dealt with immediately. However, if these problems are sys-

temic, we need to work toward solutions on how to address them. Unfortunately, by only focusing these hearings on individual examples of a problem in one sector of higher education, we have no understanding of the true extent of the problem, nor have we heard any constructive solutions for solving that problem.

So I am going to leave to see if I can put the horse in front of the cart for a change.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Enzi.

I have some documents I would like to include in the record regarding the CREW allegations against the Department of Education.

[The information referenced above may be found in additional material.]

I would also like to enter into the record a March 4 post from The New Republic on the subject of CREW and its executive director that looks at this question as well.

[The New Republic, March 4, 2011]

WHY DO ETHICS STORIES STILL QUOTE CREW'S MELANIE SLOAN?

(By James Downie)

Kudos to the *New York Times* for a well-done investigation, published yesterday, on how companies operating in Louisiana are donating large amounts of money to Bobby Jindal's wife's charity. Of course, that does not immediately prove something unethical has actually taken place, but, well, I'll let a quote from the *Times* piece sum it up:

> "The motives might be good," said Melanie Sloan, director of Citizens for Responsibility and Ethics [in Washington], which has also examined public records detailing the operations of Mrs. Jindal's charity. "But the donations that come in to charities like this are almost always from folks who want something from a politician. It is a troubling phenomenon."

Melanie Sloan is exactly right: Even if your motives are well-intentioned, if the surrounding relationships look unethical, then people should be troubled. It reminds me of another news item from last November:

> When the executive director of a prominent Washington ethics watchdog group goes to work for a well-known corporate lobbyist, it's bound to raise a few eyebrows.
>
> But in the case of Melanie Sloan of Citizens for Responsibility and Ethics (CREW), who last week announced she is [leaving CREW and] joining the new firm of lobbyist Lanny Davis, there's another layer of intrigue: Sloan came under fire over the summer for appearing to go to bat for the for-profit schools industry, which is currently a paid lobbying client of Davis. At the time, Sloan and CREW explicitly cited a column Davis wrote defending the for-profit industry. Now, Sloan is going to work for Davis.
>
> In interviews with Salon, Sloan and Davis both said that the concatenation of events is a pure coincidence . . . "It was a coincidence" that CREW cited Davis' column in July, Sloan says. "This is not any different than anything else CREW does where people automatically ascribe a motive to us—it's not true." She argues that there is disturbing evidence that short sellers are pushing the new regulations, adding that "I'm really comfortable with where we are on this."

Sloan eventually reversed course and announced she would stay at CREW, but she has continued to lash out at groups advocating against for-profit colleges. And since the transparency group does not release its donor list, we still do not know exactly why Sloan has decided to make for-profit colleges a crusade. Given that the *Times* story was otherwise well-reported, it's a shame that the quoted ethics source has undermined herself so thoroughly, and reporters will (or at least should) think twice in the future before citing Sloan.

The CHAIRMAN. I also want to introduce into the record statements from the GAO regarding its investigation and reorganization, especially the statement from GAO,

> "We were pleased to see that the inspection showed the revised report was fully supportable, and there was no bias or conflict of interest at all involved in the work. We continue to stand by the overall message of our report, and we have no plans to withdraw it."—Statement from the GAO.

And in fact, the tapes of all of the GAO investigations are both on the committee Web site and my own Web site. So I would like to introduce those into the record.

[The information referred to may be accessed from the committee Web site at *http://help.senate.gov*.]

And a letter from the Chief Operating Officer of the Department of Education, dated March 9.

> "This letter is to confirm that the U.S. Department of Education's Federal Student Aid has no concerns or reservations with representatives of Bridgepoint Education testifying on March 10, 2011. FSA met with counsel for Bridgepoint's Ashford University on March 4, 2011, provided them with an opportunity to share information which they considered relevant to the Office of Inspector General audit of Ashford University that FSA is currently resolving. There was nothing in that meeting that FSA believes would have any impact on Bridgepoint's ability to testify."

I want to introduce that also into the record.

[The information referred to follows:]

U.S. DEPARTMENT OF EDUCATION,
March 9, 2011.

Hon. TOM HARKIN, *Chairman,*
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510–6300.

DEAR MR. CHAIRMAN: This letter is to confirm that the U.S. Department of Education's Federal Student Aid (FSA) has no concerns or reservations with representatives of Bridgepoint Education, Inc. (Bridgepoint) testifying on March 10, 2011.

FSA met with counsel for Bridgepoint's Ashford University on March 4, 2011 and provided them with an opportunity to share information which they considered relevant to the Office of Inspector General's audit of Ashford University that FSA is currently resolving. There was nothing in that meeting that FSA believes would have any impact on Bridgepoint's ability to testify.

Please let me know if you have any additional questions.

Sincerely,

WILLIAM J. TAGGART,
Chief Operating Officer (CEO).

The CHAIRMAN. Now we will start with our witnesses. I appreciate your patience and appreciate your being here today. And first, we will start with Kathleen Tighe, the Inspector General, who was sworn in as Inspector General for the Department on March 17, 2010.

Prior to that, she was Deputy Inspector General at the U.S. Department of Agriculture. And from 1995 to 2005, she served as counsel to the Inspector General of the GSA and before that as assistant counsel for the Office of Inspector General.

Ms. Tighe has lectured frequently to both Government and industry groups. She earned her law degree with honors from George Washington University, her master's degree in international relations from American University, graduated with distinction from Purdue, a member of Phi Beta Kappa.

So, Ms. Tighe, again, I welcome you. Your statement will be made a part of the record in its entirety, and I would ask if you could basically sum it up for us in several minutes.

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

Ms. TIGHE. Thank you, Mr. Chairman.

Good morning. Good morning, Senator.

Thank you for inviting me here today to discuss our recent audit report on Ashford University's administration of Federal student aid for its distance education programs. We chose to audit Ashford due to the tremendous growth in the amount of Federal student aid it disbursed to its students over the last several years and its rapid expansion into distance education.

I note that in a 5-year period, the title IV funds that Ashford received grew from about $3 million to $613 million. Our initial objectives were to focus on the types of problems we had identified at other institutions that provide distance education, such as Federal student aid disbursements and return of Federal student aid funds.

After we began our onsite audit work, though, we decided to add to our review Ashford's compliance with the incentive compensation safe harbor regulations because of the significant increase in the number of Ashford's enrollment advisers, which in a 2-year period had increased from about 100 to nearly 1,000.

Our audit identified significant deficiencies in Ashford's administration of the Federal student aid programs. We first found that Ashford had established a highly incentivized compensation plan for its enrollment advisers but could not demonstrate that it qualified for the regulatory safe harbors. Ashford had designed a compensation plan using a complex matrix to evaluate its enrollment advisers' performance and related salary adjustments, assigning points for factors tied to enrollments and other factors based on performance measures.

Initially, 35 out of 100 possible points were based on securing enrollments. In April 2007, Ashford increased the points assigned for securing enrollments to 74 points out of 100. We reviewed Ashford's salary adjustments and found that fully 92 percent of the actual salaries did not match the amounts they should have under the compensation plan.

We also found that Ashford's processes for determining academically related activity in the distance education environment did not meet Federal requirements. Institutions are required to ensure that students receiving Federal student aid are engaged in academically related activities.

Ashford considered mere clicks into the learning block of its online educational software as equating to academic activity. In our own analysis, we looked instead for evidence of submissions of homework assignments, participation in quizzes, and the like.

We found that Ashford also disbursed Federal student aid for students who were ineligible because the students had not yet completed the prior payment period. Seventy-five percent of the improper disbursements in our sample were made for students who never became eligible. We estimated that the total amount of ineligible disbursements Ashford made during the award year we looked at to be between $3.7 million and $8.9 million.

In addition, Ashford's procedures for charging tuition and fees and disbursing Federal student aid resulted in credit balances on students' accounts. Schools may hold credit balances if they follow Federal requirements. We found that Ashford violated these requirements by holding credit balances for which there were no currently assessed institutional charges and by not properly obtaining the students' authorization to hold a credit balance.

Ashford also did not maintain a subsidiary ledger account to identify those credit balances it was holding, as required by regulation. So we could not readily identify the total amount of credit balances Ashford was, in fact, holding.

When students cease attending an institution, institutions are required to follow specific regulations to determine if Federal student aid must be returned to the department or to the lender. We found that Ashford did not properly calculate the amounts it was to return because of a combination of factors.

It did not properly calculate the payment period end date for students who did not complete their credits according to schedule. It didn't always use the correct last day of attendance as the withdrawal date, and it didn't always correctly project the applicable tuition charges. For the award year we looked at, we estimated that Ashford improperly retained about $1.1 million for its students.

The findings we identified at Ashford and through our related audit work, as well as our investigative work, highlight the difficulty that all institutions face in administering Federal student aid in the distance education online environment. The overarching challenge, we believe, in this area is adapting to distance education the regulatory and oversight environment that is based on traditional semester-based classroom instruction.

To help address the challenges facing higher education, my office—in the area of distance education, my office recently initiated an audit to determine what the department has done and can do to help reduce the risks associated with distance education at all institutions—public, nonprofit, and for-profit. We are also compiling a report on the vulnerabilities we have identified through our investigative work in the distance education area that we will use to recommend program enhancements to help mitigate these vulnerabilities.

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

[The prepared statement of Ms. Tighe follows:]

PREPARED STATEMENT OF KATHLEEN S. TIGHE

SUMMARY

Inspector General Kathleen S. Tighe will testify before the U.S. Senate Health, Education, Labor, and Pensions Committee on Thursday, March 10 on the U.S. De-

partment of Education (Department) Office of Inspector General's (OIG) audit of Ashford University's administration of the Title IV, Higher Education Act programs, issued on January 21, 2011.

Inspector General Tighe will share that Ashford was chosen for audit due to the tremendous growth in the amount of Federal student aid it disbursed to its students, its rapid expansion into distance education, and the significant increase in the number of enrollment advisors it employed over a short period of time. She will present the findings of the audit, which identified the following deficiencies in Ashford's administration of the Federal student aid programs:

- Incentive Compensation—Ashford established a highly incentivized compensation plan for its enrollment advisors but could not demonstrate that its policies and business practices for compensating its enrollment advisors qualified for the regulatory safe harbors;
- Student Eligibility for Federal Student Aid—Ashford's processes for determining "academically related activity" in the distance education environment did not meet Federal requirements.
- Federal Student Aid Disbursements—Ashford disbursed Federal student aid for students who were ineligible as they had not completed coursework to qualify for additional aid disbursements;
- Credit Balances—Ashford held credit balances for institutional charges that had not been assessed and also did not obtain required student authorizations; and
- Return of Federal Student Aid Program Funds—Ashford did not properly calculate the amounts it was to return, and often paid the returns late.

Inspector General Tighe will also update the committee on OIG investigative work in the distance education arena and will share with them information on other work the OIG is presently conducting involving distance education. This includes an audit to determine what the Department has done and can do to help reduce the risks associated with distance education at all institutions, and a report on the vulnerabilities OIG investigative work has identified that will recommend program enhancements to help mitigate these vulnerabilities.

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 (OIG) recent audit report on Ashford University's administration of the Title IV, Higher Education Act programs. This is my second appearance before this committee since I became the Inspector General last year. It is an honor to lead this organization and to have the opportunity to share with you our efforts to ensure integrity and efficiency in Federal education programs and operations.

As requested, I will testify today on the findings of our audit that sought to determine whether, for its distance education programs, Ashford University (Ashford) complied with selected provisions of the *Higher Education Act of 1965*, as amended (HEA). I will also discuss more broadly our concerns involving Federal student aid used for distance education, an area vulnerable to risk and one in which OIG is currently focused on combating fraud and abuse.

Our audit of Ashford University's distance education programs was the fifth audit that my office has conducted involving distance education over the last 3 years. The explosion of distance education in recent years—at for-profit, non-profit, and public institutions—has demanded our audit and investigative attention and the findings of our work highlight the need for greater oversight and/or statutory or regulatory change. The overarching challenge in this area is adapting to distance education the regulatory and oversight environment that is based on traditional, semester-based classroom instruction, and in particular, determining whether students in distance education are "regular students" as required by the HEA and actually in attendance for Federal student aid purposes. I will discuss this in more detail throughout this testimony.

SUMMARY OF OIG AUDIT OF ASHFORD UNIVERSITY

The following is a summary of our findings at Ashford and the recommendations we made to the Department to address the deficiencies identified.

Background

The institution was established in 1918 as a non-profit, residential junior college located in Clinton, IA, originally named Mount St. Clare College. In 1979, the institution received approval to award baccalaureate degrees, and in 2002, changed its name to The Franciscan University. In 2004, the school conferred its first graduate

degrees and changed its name to The Franciscan University of the Prairies. The institution struggled financially due to declining enrollment. In 2005, Bridgepoint Education, Inc. (Bridgepoint), a publicly traded for-profit corporation headquartered in San Diego, CA, purchased the institution and changed its name to Ashford University. Ashford experienced immediate, tremendous growth by offering distance education programs. This growth coincided with the 2006 elimination of the HEA's limitation on distance education. The limitation required that 50 percent or more of any schools' students could not be enrolled in distance education programs and that a school could not offer more than 50 percent of its courses on-line or via distance education. From the 2005–6 award year to the 2008–9 award year, recipients of Federal student aid enrolled in distance education at Ashford increased from about 1,800 to nearly 33,000. For award year 2004–5, Ashford received just under $3 million in Federal student aid funds, increasing to $16 million for 2005–6, and exceeding $81 million for 2006–7. The tremendous growth continued, with Ashford receiving approximately $613 million in Federal student aid funds for the 2009–10 award year.

We selected Ashford for audit due to the significant amount of Federal student aid disbursed to its students and to Ashford's rapid expansion into distance education. We consider both to be risk factors that could impact an institution's ability to adequately administer the Federal student aid programs. Our initial objectives at Ashford were to focus on the types of problems we have identified at other institutions that provide distance education: (1) student eligibility for Federal student aid; (2) Federal student aid disbursements; and (3) return of Federal student aid program funds. After we began our onsite audit work and gained an understanding of Ashford's business model, we decided to also review its compliance with incentive compensation safe harbor regulations promulgated by the Department in 2002. We added this objective because we identified a significant increase in the number of Ashford's enrollment advisors, which in a 2-year period had increased from about 100 to nearly 1,000.

Audit Findings

Our audit identified significant deficiencies in Ashford's administration of the Federal student aid programs. Our primary finding was that Ashford had established a highly incentivized compensation plan for its enrollment advisors but could not demonstrate that its policies and business practices for compensating its enrollment advisors qualified for the regulatory safe harbors. Our other findings identified deficiencies similar to those that we found at other distance education institutions we have audited, such as deficiencies related to disbursement of Federal student aid funds and return of Federal student aid program funds. A summary of our findings at Ashford follows.

Incentive Compensation

In 1992, Congress banned incentive payments to school enrollment advisors based directly or indirectly upon success in securing student enrollments or awarding financial aid. However, in 2002, the Department issued regulations that provided 12 exceptions, known as safe harbors, that an institution may practice without violating the statutory ban. The first safe harbor allows for the payment of fixed compensation as long as the compensation is not adjusted up or down more than twice during any 12-month period and any adjustment is not based solely on the number of students enrolled.

Our audit found that Ashford had designed a compensation plan using a complex matrix to evaluate its enrollment advisors' performance and related salary adjustments with the intention of qualifying for the first safe harbor. The plan assigned points for eight quantitative factors tied to enrollments and 10 qualitative factors based on other professional performance measures. Every 6 months, enrollment advisors were to be evaluated and assigned points. Initially, 35 out of 100 possible points were based on securing enrollments. In April 2007, points assigned for securing enrollments rose to 74 out of 100. The point totals correlated to five different salary ranges within which salaries could vary between $9,000 and $34,000.

We found that Ashford did not adjust salaries based on its compensation plan as the plan was explained to us during our audit. For the 27 evaluations of enrollment advisors we tested, 92 percent of actual salaries did not match the amount we calculated using the formula that some Ashford officials stated was used to set salaries under the plan (other Ashford officials could not provide an explanation of how they determined salaries.) Four of the twenty-seven evaluations resulted in salaries outside of the expected salary range.

In response to a draft of our audit report, Ashford explained that it allowed discretion for its managers in adjusting salaries; however, Ashford did not explain how the discretion was to be exercised and ultimately could not demonstrate why its enrollment advisors received a particular salary. As a result, we could not conclude that it qualified for the safe harbor its compensation plan was designed to meet.

STUDENT ELIGIBILITY FOR FEDERAL STUDENT AID

Institutions are required to ensure that students receiving Federal student aid are engaged in academically related activities. Ashford considered "clicks" into the "Learning Block" of its on-line educational software to support academically related engagement to demonstrate attendance. In our analysis, which we based on the Department's guidance, we did not consider a mere "click" of a link on Ashford's Web site or in the "Learning Block" to be evidence of academic attendance as required by the regulations. For example, a student's click on the announcement section of a "Learning Block" did not reflect academic attendance by the student. We obtained and reviewed electronic records for the courses that the students attended and used the course records that showed students' academic postings to document attendance. We considered a student to have attended if we found evidence in the system that the student:

- Responded to an academically related question asked by the instructor;
- Contributed to an academically related discussion;
- Submitted a homework assignment; or
- Participated in an on-line quiz.

Ashford's reliance on clicks rather than on actual academic activity to determine student attendance was a contributing factor to the findings we identified involving disbursing and returning Federal student aid.

FEDERAL STUDENT AID DISBURSEMENTS

Ashford delivered distance education programs in non-term, credit-hour programs. For undergraduate programs, the courses were, for the most part, offered in three credit modules of 5 weeks in length. For non-term, credit-hour programs, an institution must disburse Federal student aid based on its payment period. Ashford's payment period comprised four 5-week modules that began on the first day of the first module and ended on the day that the student successfully completed the fourth module or 12 credits.

Ashford allowed students to take breaks of up to 29 days between modules, so payment periods varied by student. Based on our sample, we found that Ashford disbursed Federal student aid for students who were ineligible, because the students had not yet completed the prior payment period. Seventy-five percent of the improper disbursements to students in our sample were made to students who never became eligible. For the 2006–7 award year, we identified over $89,000 disbursed to students in our sample who were not eligible to receive Federal student aid and estimated that the total amount of ineligible disbursements Ashford made during the award year to be between $3.7 and $8.9 million. Although in most cases Ashford identified and corrected improper disbursements after they were made, Ashford had use of the funds and may have earned interest it was not entitled to.

Ashford's procedures for charging tuition and fees and disbursing Federal student aid resulted in credit balances on student accounts. A credit balance occurs when funds disbursed exceed current allowable charges. Schools may hold credit balances if they follow regulatory requirements. We found that Ashford violated these requirements by holding credit balances for which there were no currently assessed institutional charges and by not properly obtaining a student's authorization to hold a credit balance for funds that normally would be promptly paid to the student. Ashford's authorization form did not provide the option to have the credit balance paid to the student. If a school does not obtain an authorization—or if the student revokes his or her prior authorization—the school must pay the credit balance to the student within 14 days. Ashford did not maintain a subsidiary ledger account to identify credit balances it held for longer than 14 days, as required by regulation, so we could not readily identify the total amount of credit balances Ashford was holding.

RETURN OF FEDERAL STUDENT AID PROGRAM FUNDS

When students cease attending, institutions are required to follow specific regulations to determine if Federal student aid must be returned to the Department or to the lender, as applicable. The Federal Government is harmed when an institution does not return Federal Family Education Loan funds to lenders timely because it

must pay interest on the average unpaid principal to lenders on subsidized student loans during in-school status and the grace period prior to entering repayment. Borrowers are harmed when an institution improperly retains loan funds because borrowers are responsible for any interest that accrues on their unsubsidized loan amounts that should have been returned to the lenders.

Ashford did not properly calculate the amounts it was to return because it did not (1) revise the payment period end date for students who did not complete their credits according to schedule; (2) use the correct last date of attendance at an academically related activity as the withdrawal date; and (3) correctly project the tuition charges that would have been charged to the students if they had completed the credits for the payment period. For the 2006–7 award year, we identified more than $29,000 in improperly retained funds for the students in our sample and estimated that Ashford improperly retained at least $1.1 million for all students in the award year.

Ashford also did not return funds in a timely manner. Institutions are required to return unearned funds as soon as possible but no later than 45 days after they determine that a student has withdrawn. Of the 47 returns for students in our sample, 21 (45 percent) were paid late. The late payments ranged between 3 and 273 days.

A contributing factor to some of Ashford's incorrect calculations of funds to be returned and late payments was that Ashford did not always have documentation to support students' leaves of absence. If a student was not attending and was not on an approved leave of absence, Ashford was required to treat the student as having withdrawn and to determine if funds needed to be returned. Unapproved leaves of absence resulted in incorrect determinations of the last date of attendance for students who did not return to school, and in many cases, the incorrect determination of the last date of attendance resulted in incorrect amounts to be returned and contributed to late returns being paid.

Audit Recommendations

Based on our incentive compensation finding, we recommended that the Department require Ashford to provide records of all salary adjustments made during our audit period, and take appropriate administrative action for all salary adjustments that did not qualify for the safe harbor.

For our other findings, we recommended that Ashford be required to:

- Return Federal student aid funds which Ashford was not entitled to retain; and
- Cease drawing, disbursing, and holding credit balances for which there are no currently assessed institutional charges.

We also recommended that the Department consider taking appropriate administrative action based on Ashford's improper disbursement and return of Federal student aid funds. Ashford officials disagreed with all of our findings and recommendations.

We issued our final report on January 21, 2011. The Department must now determine how to address our recommendations. Ashford officials have the opportunity to provide additional comments and information that they believe may have a bearing on the Department's resolution of the audit. The Office of Management and Budget Circular A–50, *Audit Followup*, requires the Department to resolve our audit within 6 months after the final audit report was issued.

I would now like to take a moment to update you on our other work involving distance education.

DISTANCE EDUCATION

The findings we have identified through our distance education audits and investigative work highlight the difficulty that all institutions face in administering Federal student aid in the distance education/on-line environment. These difficulties leave Federal student aid funds at significant risk of being disbursed to ineligible students and that inadequate refunds will be made for students who cease attendance in these programs.

Our investigative work continues to affirm the vulnerability of distance education to fraud. Since 2005, we have initiated 100 investigations of "fraud rings" targeting distance education programs at public, non-profit, and for-profit schools. Since we first testified about this issue in October 2009, our case load in this area has more than doubled. We are currently investigating 66 fraud ring cases.

Our work in this area has revealed that large, loosely affiliated groups of criminals seek to exploit distance education programs to cause Federal student aid to be paid to them. These groups, which we refer to as "fraud rings," typically have one or more ring leaders and associates who work to recruit friends, relatives, and other

acquaintances to enroll into distance education programs for the sole purpose of improperly obtaining Federal student aid funds.

Once someone agrees to collaborate in the scheme, the ring leader often completes and submits admission forms, Federal financial aid applications, and supporting documentation, often including forgeries and false statements of eligibility, such as having a high school diploma or GED. The ring leaders sometimes assume the identity of scheme participants to access a school's on-line classes in order to generate records of the individuals' participation in the classes, which causes school officials to authorize financial aid payments. By targeting distance education programs, the participants avoid setting foot on campus and can exploit institutions outside their geographic area.

These fraud rings mainly target lower-cost institutions because the Federal student aid awards are sufficient to satisfy institutional charges (such as tuition) and result in disbursement of the balance of an award to the student for other educational expenses (such as books, room and board, and commuting expenses). Participants in these fraud rings, however, have no intention of pursuing a degree or credential and have no legitimate educational expenses. Once a disbursement is received, a portion is typically kicked back to the ring leader or recruiter, who often controls the address or bank account where payments are sent.

Many of these fraud ring investigations have involved dozens of participating individuals. In one recently completed case, we obtained convictions of 64 participants who fraudulently obtained over $530,000 in Federal student aid funds. A number of institutions have been aggressively engaged in trying to identify fraud in this area and have been communicating with our office regarding their findings or concerns.

To help address challenges facing the higher education community in the area of distance education, my office recently initiated an audit to determine what the Department has done and can do to help reduce the risks associated with distance education at all institutions. The objectives of this audit are to determine whether the Department: (1) adapted Title IV, HEA program requirements and guidance to mitigate the unique risks of fraud, waste, and abuse inherent in the distance education environment; and (2) adequately revised its monitoring of other entities (e.g., accrediting agencies, State agencies, institutions of higher education) to provide reasonable assurance of those entities' adherence to the requirements for distance education. This audit work will look at 2-year and 4-year distance education programs at public and non-profit schools, as well as for-profit schools. Our audit is just underway and we look to release a final report later this year.

We are also compiling a report for the Department on the vulnerabilities that we have identified in our investigative work in the distance education area that will recommend program enhancements to help mitigate these vulnerabilities. We plan to release this report within the next few months.

In addition, the Department's program integrity regulations that will go into effect on July 1 of this year make changes to the regulatory framework that we hope will help reduce waste, fraud, and abuse in the area of distance education. The changes include a further definition of academically related engagement, defining a credit hour, calculating refunds in a non-term module system, and expanding the definition of misrepresentation. The Department will need to be vigilant to ensure the effectiveness of the new regulations and determine whether further changes are needed. We will monitor the implementation of the Department's new regulations, and will do whatever we can to ensure that the new regulations assist in protecting our Nation's students, parents, and taxpayers.

This concludes my remarks on our audit of Ashford University and our concerns about Federal student aid funds used for distance education. I want to thank you again for inviting me to testify today. We look forward to working with this committee and the 112th Congress to help improve Federal education programs and operations so they meet the needs of America's students and families and ensure tax dollars for education are protected from waste, fraud, and abuse. I am happy to answer any of your questions.

The CHAIRMAN. Thank you very much. Thank you very much, Inspector Tighe.

Let me first get into this whole issue of safe harbors. When you have a regulation called a safe harbor, and as you pointed out, the initial legislation in 1992 that was instigated by former Senator Sam Nunn at that time, the legislation passed the House and Senate that provided you could not pay—in the for-profit sector, you

couldn't pay recruiters a capitation payment. In other words, based on how many students they enrolled.

Ms. TIGHE. That is right.

The CHAIRMAN. In 2002, regulations issued by the Department of Education—not a law that we passed, but regulations—set up 12 different kinds of safe harbors, which could be used so that if you didn't base all of your compensation on recruitment, then you would be in a safe harbor.

When you have a regulation like a safe harbor, it implies it should be pretty easy to comply with. Again, tell us what you found in the Bridgepoint audit regarding their executive incentive, their incentive compensation. You reviewed the school. You said that it set a policy that 74 percent could be based on points directly related to securing enrollments.

But documents produced, revealed later they based more on that. So it seems to me 74 percent is a pretty generous policy. How can you violate that kind of a policy?

Ms. TIGHE. Well, it was a generous policy. The problem, and if they had actually followed their policy, they would have met the safe harbor. All they had to do was show that the enrollment advisers' compensation was based on something other than enrollments. It really isn't a very hard criteria to meet. Most schools have met it very readily.

Ashford, in this case—I mean, it surprised us, I think, as much as anyone that the matrix and the compensation plan on their face looked like they met the safe harbor. But when we went in and tested it, we found that, in fact, the salaries didn't match up with the plan at all. So we could not actually tell what factors the compensation was based on. So Ashford, in the end, could not demonstrate that it met the safe harbor.

The CHAIRMAN. In the student complaints that we have reviewed, there are innumerable student complaints about mishandled financial aid, students being told to start before financial aid came through, and students being unable to resolve financial aid concerns as a result of frequent staff changes or inability to reach the financial aid staff.

A number of students complained they had their financial aid and/or billing mishandled, often resulting from withdrawals that were also mishandled, and usually resulting in thousands of dollars of charges. Again, we had over—as I pointed, it is over 750 complaints.

And these are the complaints—these are not just all the complaints that someone called in. These are 750 complaints that went through the formal grievance process. Probably thousands more that just called up and never got anybody.

One student said she sent,

> "one email every other day to my financial aid adviser, begging for a response, and didn't receive a response at all. To date, I have not received a call back or email response to any of my inquiries."

Another said, "During my time at Ashford, I have been assigned over six different financial services representatives."

A third said,

> "My major complaint is the fact that when I was enrolling in classes, I had no problem with someone from the school returning my phone call. Now that I am an existing student, I cannot get anyone to return my phone calls."

Again, it has to do with the chart I showed in terms of services or the lack of services to students. What consequences does this have for the handling of title IV dollars?

Ms. TIGHE. Well, I think it is significant. I think it is reflective of what we have seen in schools that grow very rapidly. When they grow very rapidly, particularly in the distance education area, handling title IV funds becomes a challenge.

And I think that what we have seen in schools, although we did not specifically look at it at Ashford, what we have seen at other similar institutions is that there is a high turnover. They don't hire financial aid administrators who are up on all the requirements, and it has implications, I think, for the schools and for the students. And I think you end up having the same kind of problems we found in this audit.

The CHAIRMAN. Last, I have a chart here. All of the alarm bells that the growth at Ashford set off in my mind, when I saw this huge growth—I think it set it off for your office. I guess then I don't know if that is a reason, but your office performed the audit.

And so, we looked at your audit, but that was conducted, if I am not mistaken—you correct me if I am wrong. That audit was conducted based on Ashford in 2006, when they had 4,471 students. And even with all of the findings that you found, look where Ashford is now, at 78,000 students. Am I right in that, that the audit was really based upon the 4,000?

Ms. TIGHE. That is correct. We looked at the 2006–7 award year, and I think there were roughly—so it would include the whole time period, 2006 through July 2007. And I think at the time we looked at Ashford, there were about 8,500 students, but that is nowhere near the 77,000 students there.

The CHAIRMAN. I understand that. My question is, with all those findings, what is it like now? We don't really have a handle on that, and I guess is the audit process the best tool we have to assess for-profit schools' handling of Federal financial aid? Do we need a closer snapshot in time as to what is going on?

Ms. TIGHE. Yes. I mean, I know there is obviously a lag time here between the period of time we looked at and our being able to come out with a written audit product. I will say this, I think that the issues we found—we are aware specifically that Ashford, on a couple of areas, has taken action to fix the problem.

For example, on the credit balances, it developed a new form that gave voluntary authorization by the students to Ashford to hold the credit balances. It worked with its service provider on the timeliness of the returns of title IV funds. But there are a lot of other issues that we point out that we are not sure they have fixed. And I think that I would be concerned that those issues are still ongoing. How are they calculating payment periods? How are they calculating the dates?

And I think that, you know, there are a couple of areas where I think you can get maybe a more current snapshot. I think in the process FSA is going through right now with Ashford in the resolu-

tion of our audit, FSA could ask Ashford to do a file review of the later years, the years past when we looked at.

They themselves could go in and do a program review, based on our audit findings, of its current processes and take a look at it now. So I think there are a couple of things that can be done.

I know you are aware that Ashford—all the for-profit schools have compliance audits that are done every year. Now, the compliance audit that will come out this year won't have the benefit of our findings. So you will have to wait another year for that to happen. But it is an imperfect process, but right now, it is sort of what we have.

The CHAIRMAN. You said, "We recommend"—in your statement, you said,

> "We recommend Ashford be required to return Federal student aid funds which Ashford was not entitled to retain and cease drawing, disbursing, and holding credit balances for which there are no currently assessed institutional charges."

Do you have any knowledge of whether or not that has been done?

Ms. TIGHE. I do not.

The CHAIRMAN. You don't know that?

Ms. TIGHE. I do not know, but I don't think they have.

The CHAIRMAN. OK. Thank you. Thank you very much, Ms. Tighe.

Senator Isakson.

Senator ISAKSON. Ms. Tighe, would you consider your position to be somewhat similar to that of a district attorney?

Ms. TIGHE. I think in some cases maybe a little broader, because we do more than do criminal investigations. We also do audits, but——

Senator ISAKSON. Do you make a determination as to whether or not there should be an "indictment," I guess?

Ms. TIGHE. I think that would be a little strong in this case. I don't see criminal behavior here. I see not handling title IV funds very well. But I don't think we give any evidence that we would see—we have seen criminal behavior.

Senator ISAKSON. And you haven't completed your investigation, have you?

Ms. TIGHE. We have completed our audit process, yes.

Senator ISAKSON. Have you completed your report back to the committee, or has the Department of Education FSA totally responded?

Ms. TIGHE. It is up to—our report process is done at this point. FSA has the ball in their court.

Senator ISAKSON. So it is up to them. But they haven't made a decision yet?

Ms. TIGHE. Yes. They have not made a decision, no.

Senator ISAKSON. Well, I just want to say that I want to associate myself with the remarks of the Ranking Member. I have concerns about some of the accusations that are being made, but I have deeper concerns about getting into a prosecutorial-type environment before a final report has even come back from the department.

I am not criticizing you, but I do think the committee needs to have a pretty even balance in terms of these things. And some of the presentations, although they may be accurate to the extent information is considered, they illustrate things that, in fact, don't take in all considerations. I will give you one example.

Senator Kerrey, Bob Kerrey from Nebraska, and I were charged in the Clinton administration with what was known as the Web-based education commission to investigate the delivery of college content over the Internet, which resulted in the creation of the eArmyU.

If you went and looked at numbers today, you would find the number of people in 1999 in the military getting distance learning was probably zero, and now it is a substantial part of the deployment because it became available.

So I think the growth in enrollment—and I am not—this is not a defensive statement. But I think when you talk about Web-based delivery, the reason the safe harbors were created, Mr. Chairman, in terms of the 50/50 rule, the 90/10 rule, and the incentive compensation rule was to address the uniqueness of Web-based delivery of content for higher education and training because all of the old rules were archaic to that type of delivery of the system.

You could have a totally disproportionate number that looks horrible, but when you study the facts, you understand this was a new delivery system, when developed, that became very popular with students. Because the growing number of students in America are nontraditional students, not traditional students, and that is what most of these type of institutions deliver.

Again, I am not defending them, but I am saying I do know a little bit about those numbers. And you have got to put all of the numbers out there if you want to make an appropriate comparison.

The other thing, are you familiar with AES?

Ms. TIGHE. AES? No, I am not.

Senator ISAKSON. OK. That stands for Advanced Education Service—something like that. Anyway, are you familiar with the email traffic that was solicited in a FOIA request from the department?

Ms. TIGHE. No, I am not. I am sorry.

Senator ISAKSON. Well, I would just suggest, Mr. Chairman, without getting into those details, that we should make sure before we proceed any further with this that we have a result on the FOIA request and the analysis of the emails that were received that were transferred between the department and those who might financially benefit from the activities of this investigation.

I think it is very important that we make sure that we don't get used by somebody on the outside. I am talking about "we," the committee, somebody on the outside to prosecute a case that may or may not have all the evidence in.

And the last thing I will say is this. I want Bridgepoint to come to the hearing, but I want them to come to the hearing after everything is on the table. And I think they probably made an intelligent decision based on the incomplete nature of FSA's determination as to whether or not they should be here.

I think when that determination is made, that is the point in time which they should come and defend themselves, if a defense

is necessary. And with that, I appreciate your hard work, and thank you very much.

Ms. TIGHE. Thank you.

The CHAIRMAN. First of all, I would just reply to my friend from Georgia, and he is my friend. I don't think anyone on this committee is objecting to Web-based content at all.

What we are reacting to is the growth in low-quality Web-based content that is taking a lot of public moneys, having huge default rates, and sticking a lot of low-income kids and adults with a mountain of debt. That is what I am objecting to. This cries out for regulation.

Ms. Tighe, you said that one of your recommendations was cease holding credit balances?

Ms. TIGHE. That is correct.

The CHAIRMAN. Again, our internal documents from Ashford show that, as of December 31, 2009—that is the most recent we could get—they were holding, are you ready for this, $94.9 million in credit balances.

Ms. TIGHE. I think their most recent 10–K that was just filed has increased that amount to about $130 million.

The CHAIRMAN. That they are sitting on?

Ms. TIGHE. That they are sitting on.

The CHAIRMAN. So I guess you draw interest on that money, don't you?

Ms. TIGHE. Yes, you do.

The CHAIRMAN. I mean, this is unconscionable. That is my own—just unconscionable, unconscionable.

Do you have anything else, Ms. Tighe?

Ms. TIGHE. That is it.

The CHAIRMAN. Thank you very much for your testimony and your audit.

Ms. TIGHE. Thank you very much.

The CHAIRMAN. Thank you very much.

We will now move to our second panel.

On the second panel, as I said, we have Dr. Arlie Willems from Anamosa, IA, recently retired from the Iowa Department of Education, where she was responsible for State reviews of teacher preparation programs. Prior to her work at the department, she was a faculty member at two colleges in Iowa, where she focused on the preparation of new teachers.

Earlier in her career, Dr. Willems spent 18 years as a classroom teacher and a coordinator for her district's program for gifted and talented students. After Dr. Willems, we will hear from Dr. Sylvia Manning, president of the accrediting agency known as the Higher Learning Commission, HLC, of the North Central Association of Colleges and Schools. Dr. Manning came to HLC after 8 years as chancellor at the University of Illinois at Chicago and previously served for 19 years in various capacities at the University of Southern California, including chair of the English Department and executive vice provost.

Next we have Dr. José Cruz, vice president for higher education and policy and practice at the Education Trust, a nonpartisan, nonprofit organization here in Washington, DC. Dr. Cruz is a former vice president of the University of Puerto Rico, where he was re-

sponsible for admissions, financial aid, and student life programs. He previously served as professor and chair of the Electrical and Computer Engineering Department and dean of academic affairs at UPR-Mayaguez campus.

Thank you all for being here. We will start in the order in which I presented our panelists.

We will start with Ms. Willems. Welcome.

All of your statements will be made a part of the record in their entirety, and if you could sum it up in several minutes, I would appreciate it.

Ms. Willems, thank you.

STATEMENT OF ARLIE WILLEMS, Ph.D., RETIRED, IOWA DEPARTMENT OF EDUCATION, ANAMOSA, IA

Ms. WILLEMS. Thank you, Senator Harkin. And thank you for inviting me here today.

I recently retired from the Iowa Department of Education, where, for 5 years, I was responsible for reviews of teacher preparation programs for the purpose of State approval. My reasons for testifying before this committee are twofold: my concern for the future of our preK–12 teaching force in Iowa and nationally and my concern for individuals who have been misled by a for-profit university.

My testimony will give this committee a look into one window of one for-profit institution, with an eye toward the quality of programming offered by that institution. The institution is Ashford University. The window is the teacher preparation program.

The State of Iowa values education and continues to implement high standards for the preparation of its teachers. To that end, the Iowa review process, outlined on pages 3 and 4 of my written testimony, is a rigorous process, including a self-study by the program, a preliminary review by two groups of peers, and a 3-day site visit.

Although the work of teachers has become eminently more complex in recent decades, attempts at streamlining teacher preparation have mushroomed. One group of players in this new system of teacher preparation, the for-profit institutions of higher learning, presents a specific threat to the future of our teaching force because of their priorities—bottom-line profits over quality.

I chaired the State review of teacher preparation programs at Ashford University in Clinton, IA, during the 2005–6 school year. In my first encounter with the president of Ashford on July 21, 2005, he explained to me that the university is run according to a business model in which the focus is the bottom line.

At the time of the review, Ashford offered a fully approved undergraduate teacher education program on the Clinton campus. This program earned continuing full approval.

The program under discussion, the Master of Arts in Teaching, the MAT program, was a completely online graduate program for initial teaching licensure, but it served students across the Nation. This program had been given conditional approval by the Iowa State Board of Education on August 12, 2004. Full approval required a full review, including a site visit, which was conducted on April 3–5, 2006, by a seven-member team.

The results of the full review, found on pages 5 to 7 of my written testimony, indicated 55 items of concern. In comparison, the undergraduate program received seven items of concern.

In the MAT, five of the six standards were reported as not met in the initial findings and remained not met once the Ashford program had been given opportunity to come into compliance and had filed its response to the State. The MAT program accepted the option of a "teach-out," whereby the students in the program were allowed to finish. One hundred of the 108 successfully completed and became eligible for Iowa licensure.

In response to a requirement by the State Board of Education, 2005 Iowa Teacher of the Year Vicki Goldsmith was hired by Ashford to supervise the teach-out. The teach-out was completed by July 1, 2007, at which time the program ceased.

Following the teach-out, Ashford University entered into a partnership with Rio Salado College in Maricopa County, AZ. Ashford currently offers a bachelor of arts in social science with a concentration in education. Courses from this program can apply to Rio Salado's online post baccalaureate teacher education program.

Completion of the Rio Salado program can result in an Arizona teaching license, which can be transported to other States depending on each State's reciprocity or exchange policies. An individual who has attained an Arizona license in this way does not automatically receive an Iowa license.

The Iowa Board of Educational Examiners, the State licensing board, is just beginning to receive applications from Iowans who have taken this route. Such applicants have been found lacking in requirements for an Iowa license.

Since the teach-out, the department and the licensure board have received numerous complaints from individuals across the country. Time and again, my heart has gone out to Ashford students who contacted me, voicing frustration, anger, helplessness, and stories of time and money wasted on shattered dreams of an education.

Often, these stories were of mounting debt with nothing to show for it, individuals and families who could easily be devastated by such debt. Ashford recruiters, paid on a commission basis, have led many prospective students to believe that the completion of an Ashford online program or the combination of the Ashford/Rio Salado programs will result in an Iowa teaching license.

Students relying on this misinformation in good faith have found themselves in great debt and have not attained their goal of becoming teachers. The problem is that Ashford University, unable to meet Iowa's requirements, reconfigured offerings within a new partnership and then misrepresented their program to prospective students, driven by a business model where the bottom line is the bottom line.

If we believe that education of our children is the key to the future of this country, we cannot afford the preparation of our teachers to be shortchanged by an unbridled business model. The example that Ashford University provides is instructive. I respectfully submit that we need to pay attention.

This concludes my remarks. I am happy to answer questions.

[The prepared statement of Ms. Willems follows:]

PREPARED STATEMENT OF ARLIE WILLEMS, PH.D.

SUMMARY

I am Arlie Willems, recently retired from the Iowa Department of Education where, for 5 years, I was responsible for State reviews of teacher preparation programs for the purpose of State approval. My reasons for testifying before this committee are twofold: my concern for the future of our PreK–12 teaching force, in Iowa and nationally, and my concern for individuals who have been misled by for-profit university recruiters. My testimony will give this committee a look into one window of one for-profit institution with an eye toward the quality of programming offered by that institution. The institution is Ashford University. The window is the teacher preparation program, one of few programs at any university that is required to undergo thorough scrutiny.

In 2005, Bridgepoint Education purchased a private college in Clinton, IA, and developed a for-profit university, Ashford University. In my first encounter with the president of Ashford on July 21, 2005, he explained the university is run according to a business model in which the focus is the "bottom line."

Ashford offers most of their programs completely online. The much smaller on-ground portion of the university continues to offer programming on the Clinton campus .

I chaired the State review of teacher preparation programs at Ashford University in Clinton, IA, in the spring of 2006, following a protocol that enforces rigorous standards. At the time of the visit, Ashford offered a fully approved undergraduate teacher education program on the Clinton campus; this program earned continuing approval. The program under discussion is the Master of Arts in Teaching (MAT) program, a completely online graduate program for initial teaching licensure. This program had been given conditional approval by the Iowa State Board of Education on August 12, 2004; full approval required a full review, including a site visit which was conducted April 3–5, 2006.

The results of the full review indicated 55 items of concern among six standards; five of the six standards were reported as "not met" in the initial findings and remained "not met" once the Ashford program had filed its response to the State. The graduate program accepted the option of a teach-out, whereby the 108 students in the program were allowed to finish the program; most successfully completed and earned an Iowa teaching license. In response to a requirement by the State Board of Education, 2005 Iowa Teacher of the Year Vicki Goldsmith was hired by Ashford to supervise the teach-out. The teach-out was completed by July 1, 2007, at which time the program ceased.

Following the teach-out Ashford University entered into a partnership with Rio Salado College in Arizona. Ashford currently offers a Bachelor of Arts in Social Science with a Concentration in Education. Courses from this program can apply to Rio Salado's post-baccalaureate teacher education program. Completion of the Rio Salado program can result in an Arizona teaching license which can be transported to other States, depending on each State's reciprocity/exchange policies.

Ashford recruiters, paid on a commission basis, have led many prospective students to believe that completing an Ashford online program or the combination of the Ashford/Rio Salado programs will result in an Iowa teaching license. Students relying on this misinformation in good faith have found themselves in great debt with education degrees that have not allowed them to become teachers. The problem is that Ashford University, unable to meet its home State's requirements, reconfigured offerings within a new partnership, and then misrepresented their program to countless prospective students, all in the name of a business model focused on the "bottom line." The example that Ashford University provides is instructive. I respectfully submit that we need to pay attention.

INTRODUCTION

I am Arlie Willems and have recently retired from the Iowa Department of Education (Department) where I served for 5 years as Administrative Consultant for Practitioner Preparation. In that role I was responsible for State reviews of teacher and administrator preparation programs for the purpose of State approval. In my 5 years at the Department I reviewed 25 of the 32 teacher preparation programs in Iowa. I respectfully submit the following testimony to the Senate HELP Committee at the request of Senator Harkin in hopes that my comments may shed additional light on the issues of for-profit institutions of higher education.

REASONS FOR TESTIFYING

My primary reason for being here today is my concern for the future of our PreK–12 teaching force, in Iowa and nationally. The State of Iowa values education and continues to implement high standards and rigorous requirements for the preparation of teachers. Iowa understands the singular importance of the classroom teacher to student learning and the clear research on the necessity of quality preparation in providing quality teachers for our K–12 students. With the proliferation of for-profit institutions of higher education, this quality issue could certainly be extrapolated to the general education of our future workforce and leaders.

Although the work of teachers has become eminently more complex in recent decades, attempts at streamlining their preparation have mushroomed. While "traditional" preparation of teachers faces and welcomes increased scrutiny and growing requirements, alternative means of moving individuals into the teaching force have been given what appears to many educators as *carte blanche* treatment. One group of players in the new system of teacher preparation, the for-profit institutions of higher learning, presents a specific threat to the future of our teaching force because of their priorities: bottom line profits over quality education. My last 5 years have been dedicated to ensuring quality teachers for the State of Iowa; my concern is how that quality control will continue as an increasing number of teachers are prepared by institutions for whom the bottom line and corporate profits trump attention to the quality of education received by these future teachers.

My second reason for appearing here today results from numerous phone calls and emails that I received from individuals across the country when I worked at the Iowa Department of Education. Time and again my heart went out to individuals who, seeing my name on the Department Web site, contacted me voicing frustration, anger, helplessness, and stories of time and money wasted on shattered dreams of an education—an education promised by a for-profit institution of higher education and a promise unfulfilled by that for-profit institution. Often these stories were of mounting debt with nothing to show for it, individuals and families who could easily be devastated by such debt. Interestingly, in my 5 years at the Department, I received no such contacts regarding more traditional institutions of higher education, whether public or private.

PURPOSE

My purpose here today is to give you a look into a window of one for-profit institution with an eye toward the quality of programming offered by that institution. The institution is Ashford University. The window is the teacher preparation program, one of few programs at any university that is required to undergo thorough scrutiny. That scrutiny is for the purpose of State approval in fulfillment of the State's responsibility to ensure quality teachers for its K–12 schools.

IOWA SYSTEM OF REVIEW OF EDUCATOR PREPARATION PROGRAM

In order to ensure quality preparation of teachers and other educators, the Iowa Department of Education operates an approval process based on continuous improvement. Rigorous requirements outlined in "Chapter 79" of the *Iowa Administrative Code* focus on six standards similar to those used for national accreditation by the National Council for Accreditation of Teacher Education (NCATE). Those standards include governance and resources, diversity, faculty, assessment (program), curriculum (student assessment), and clinical practice. Compliance to the standards is expected and required; acknowledgement of excellence and suggestions for further improvement are important aspects of the continuous improvement model. State approval entitles graduates from these programs to receive Iowa licensure upon recommendation of their programs without individual review.

Each of the 32 teacher preparation programs is reviewed in a 7-year cycle. Key components of the process include the following:

1. Dates for a program review are established. Technical assistance is available from the Department as a program prepares for its review.

2. Several months prior to the site review a program submits to the Department an Institutional Report, a self-study based on a template provided by the Department. During the same time the program submits to the Department and to the Board of Educational Examiners (BOEE) documents that delineate requirements for each endorsement (area of licensure) offered by the program.

3. The Institutional Report is read and then discussed in a day-long preliminary review. Participating in the Preliminary Review are the State Team and the State Panel; the review is led by the consultant for preparation at the Department. The State Team consists of 7 to 15 trained volunteer practitioner preparation peers and

at least one current practitioner, usually the Iowa Teacher of the Year. This is the team that conducts the site visit. The State Panel consists of nine experienced State reviewers who serve as volunteers for a 3-year term; each State Panel member attends all preliminary reviews in a given year and participates on at least one State team. The use of the State Panel and the preliminary review process has proven to be very successful in assisting teams and programs as they prepare for a more in-depth site visit and in providing consistency in reviews of programs that vary greatly in size.

4. Following the Preliminary Review the program receives a report specifying questions and requests for further information, if needed. This report provides both the State Team and the program a framework of focus for the site visit.

5. The site visit is conducted by the State Team and led by the preparation consultant from the Department. A typical site visit begins on a Sunday evening and concludes on the following Thursday morning with an exit meeting between the State consultant and representatives from the program. The team usually works a minimum of 12-hour days (Monday and Tuesday) and concludes its work by mid-afternoon on the Wednesday of the visit. All team members, excluding the Department consultant, are volunteers who view this experience as both professional development and professional dues. Amazingly, to a person, these teams end their marathon work having enjoyed the time and the professional stimulation.

Team members are assigned a specific standard; in large program reviews more than one team member will review a given standard. Similar to a national review, team members review documents provided by the program and interview faculty, students, administrators, graduates, employers of those graduates, advisory board members, and other stakeholders. Team members reviewing the clinical practice standard visit sample preK–12 schools where students in the program complete their student teaching and pre-student teaching clinical experiences. Team members then draft their segments of the Final Report to the program. The team as a whole discusses findings and makes the determination regarding an initial recommendation: whether or not each standard has been met.

6. Results of the site visit reported for each of the six standards fall into one of three categories: met or met with strength; met pending conditions; and not met. Any standard receiving a rating of "met pending conditions" must be addressed by the program; the conditions of concern must be corrected within a reasonable amount of time in order for the program to be recommended to the State Board of Education for approval. A rating of "not met" for any given standard indicates that the conditions of concern are considerable; a program may correct such concerns and be recommended for approval within a reasonable amount of time. During that time period the Department is in communication with the program and provides technical assistance as appropriate. Once the Department has received the program's final response and has determined that all six standards have been met, the program is recommended to the State Board for approval. The State Board makes the final decision.

If a program does not correct the concerns to an acceptable level, the program is not recommended for continuous approval. In such an instance a program may be given a 1-year conditional approval in order to further address issues that the Board determines problematic, or the Board may determine that the program will lose State approval. In such cases programs are allowed to "teach out" those students currently in the program with close attention to any serious concerns addressed in the report. The use of a "teach out" reflects the policy of the Department to cause "no harm" to students who have begun a program in good faith.

ASHFORD UNIVERSITY

Ashford University, based in Clinton, IA, is a wholly owned subsidiary of Bridgepoint Education, Inc., a holding company located in Poway, CA. The school was founded in 1918 by the Sisters of St. Francis as a junior college for women and was known as Mount Saint Clare College. Baccalaureate degree programs were initiated in 1979; in 2002, as the institution added graduate degrees, the name of the school was changed to The Franciscan University, later the Franciscan University of the Prairies.

When Bridgepoint purchased the Franciscan University of the Prairies, the university included an established, State-approved teacher preparation program. At a meeting with representatives from the Department and the BOEE on July 21, 2005, the president of Ashford University stated that, with the purchase of the university, Bridgepoint purchased an approved teacher preparation program. At that time he gave the impression to the State education officials that he fully expected an automatic continuation of State approval. The president also explained to those in at-

tendance that Ashford University is run according to a business model in which the focus is on the "bottom line."

The approval in place at the time was that of a traditional undergraduate teacher education program, offered on the grounds of the Clinton campus and staffed by a combination of Franciscan sisters and experienced lay teacher preparation educators. This program was to be continued. Totally separate from the original on-ground undergraduate program were a completely online graduate program for initial licensure, the Master of Arts in Teaching (MAT), and a teacher intern program, the alternative preparation model approved in the State of Iowa. These new programs had been conditionally approved on August 12, 2004, and would require a full review before being fully approved. On November 8, 2005, the Department received notice from Ashford University that the intern program had been discontinued and students in that program would have the option of transferring to the MAT program.

TIMELINE FOR THE ASHFORD MAT PROGRAM

- August 12, 2004: Conditional approval for three on-line programs, including MAT:
  - Teacher Intern Program
  - Master of Arts in Teaching for Initial Secondary Licensure
  - Master of Arts in Teaching for Initial Secondary Licensure, combined with the Teacher Intern Program
- Spring, 2005: Purchase of The Franciscan University (of the Prairies) by Bridgepoint Education, Inc., a holding company housed in Poway, CA. School renamed Ashford University.
- July 21, 2005: Iowa Department of Education (Department) one-day visit to Ashford.
- August 11, 2005: Conditional approval for the above three programs with full review to be completed in April 2006.
- November 8, 2005: Notification to the Department of Ashford's intention to discontinue the Teacher Intern Program.
- December 7, 2005: Department/BOEE meeting with Ashford representatives at Grimes Building.
- February 2, 2006: Preliminary Review followed by report to Ashford and submission by Ashford of revised Institutional Report.
- April 3–5, 2006: On-site visit.
- April 19, 2006: Letter to Department stating that Ashford is discontinuing new enrollments in the MAT Program; the most recent cohort to start the program began January 17, 2006.
- May 24, 2006: Department meeting with Ashford representatives at Grimes Building.
- July 14, 2006: Letter from Ashford to Department stating a commitment "to meeting all the standards necessary for a successful teach out of the MAT Program."
- July 27, 2006: State Board approves the Ashford University undergraduate practitioner preparation program through the completion of the next program approval process.
- July 27, 2006: The State Board granted (1) an extension of conditional approval of the MAT Program until April 1, 2007, to allow program completion by the cohort of candidates student teaching in the fall of 2006 and (2) an extension of conditional approval of the MAT Program until the September Board meeting to allow a decision to be made at that time regarding the remaining candidates in the MAT Program.
- August 29, 2006: Stipulations were specified for the Ashford MAT in a letter from the Department to Ashford University following the July State Board meeting.
- September 14, 2006: State Board grants extension of conditional approval of the MAT program for the limited purpose of permitting program completion by the cohort of (approximately 66) candidates who are scheduled to student teach in the spring of 2007. Conditional approval extends to July 1, 2007, for these candidates to accommodate completion of the portfolio course, EDU 698, following student teaching.
- July 1, 2007: Ashford MAT Program no longer approved in the State of Iowa.

REPORT OF STATE REVIEW

The Preliminary Review of the Ashford Program was held on February 2, 2006. Following review of the Ashford Institutional Report and discussion by the State Panel and State Team, a preliminary report was sent to Ashford University. A re-

vised Institutional Report was subsequently submitted to the Department by the Ashford program.

The State Team for the Ashford site visit was comprised of the following: four faculty members, including two program chairs, from approved Iowa teacher preparation programs in private colleges; the Administrative Consultant from the Iowa Board of Educational Examiners, the teacher licensing entity in Iowa; and the 2005 Iowa Teacher of the Year. All team members were trained and experienced reviewers. The team was led by the Administrative Consultant for Practitioner Preparation at the Iowa Department of Education.

The Ashford University site visit took place on April 3–5, 2006. Per standard practice, the team reviewed documents provided by the program and interviewed faculty, students, administrators, and, as possible, graduates, employers of graduates, and stakeholders of both the undergraduate and graduate programs. At least 10 individuals in administrative positions from California were in attendance or were interviewed via phone. One key individual was not available for interviews: the chair of the teacher preparation program at Ashford until a few months following the Bridgepoint acquisition was under a confidentiality agreement. The State's request to speak with this individual was denied by Ashford University.

A summary of the final report for the review of the Ashford programs is charted below. Both the graduate online program (MAT) and the undergraduate on-ground program are represented. The programs were reviewed separately, a decision made by the State Team and State Panel following the Preliminary Review because it was the judgment of the Team and Panel that these were two discrete, uncoordinated and very different programs. Later interviews with faculty members of both programs confirmed this fact and reinforced the total lack of communication, collaboration, and coordination between the two programs.

	Undergraduate Program			MAT Online Program		
Standard	Initial Finding	Number of Item to be Addressed	Final Finding	Initial Finding	Number of Item to be Addressed	Final Finding
Governance and Resources.	Met	0	Met	Not Met	13	Not Met
Diversity	Met Pending Conditions.	1	Met	Met Pending Conditions.	1	Met
Faculty	Met	0	Met	Not Met	11	Not Met
Curriculum	Met Pending Conditions.	3	Met	Not Met	9	Not Met
Assessment (Program).	Met Pending Conditions.	3	Met	Not Met	10	Not Met
Clinical Practice	Met	0	Met	Not Met	11	Not Met

In the standard process programs make needed changes, provide the Department evidence of those changes, and then are recommended to the State Board for approval. For the Ashford undergraduate program the Department received evidence of appropriate changes that allowed the designation for all standards to be "Met." Regarding the MAT program, the Department received responses to all of the items that required attention. In some cases evidence indicated that appropriate changes had been made. In most cases, however, the response denied the existence of a problem or defended the current practice; in those cases no evidence of change was seen.

The State Team found the Ashford MAT program to be more a collection of discrete courses than a cohesive program. The program was understaffed for appropriate interaction with students and supervision of both courses and clinical experiences, including student teaching. Many faculty members lacked appropriate academic background and/or experiences for their assigned responsibilities. The team saw no evidence of a comprehensive system for assessment of candidates or of the program, two critical requirements of the State administrative code. The most serious concern noted by the team was the lack of responsibility on the part of the program in providing quality clinical experiences, the aspect of teacher preparation considered the most important by preparation programs in Iowa. Generally, students were responsible for finding their own clinical placements; many of these resulting placements conflicted with what is considered best practice for Iowa preparation. Responsibility for supervision was basically relinquished to individuals within those K–12 schools with little consistency or quality control.

Discussions within the Department and with State Team members determined that the MAT program did not meet the requirements for approval and that a teach-out of the students in the program at that time would be recommended to the State Board. This option had been discussed with the director of the Department of Education following the Preliminary Review. A teach-out was discussed with the Ashford Chancellor at the conclusion of the site visit when the team had synthesized their findings and determined the existence of significant areas of concern. The Chancellor expressed appreciation for that option; she, personally, wanted to cause as little harm as possible to students in the program.

TEACH-OUT OF ASHFORD MAT STUDENTS

Following a meeting between Ashford representatives and the Department on May 24, 2006, Ashford University requested a teach-out of the MAT program, allowing all students in the program the opportunity to complete the program and graduate.

Three stipulations were specified for the teach-out of Ashford MAT in a letter from the Department to Ashford University following the July State Board meeting. These requirements included the following:

1. Each candidate shall student teach in an environment with appropriate support.
2. Each student teacher shall have no fewer than six classroom observations during the 12 weeks of student teaching.
3. Ashford shall hire a qualified person to monitor the finalization of coursework by candidates as well as student teaching.

Additionally, specific information required by the Department addressed the following: candidate and student teaching information; candidate transcript review; online courses; responsibilities and training of clinical supervisors and cooperating teachers; documentation provided to students; and plans to address problems in student teaching.

A critical requirement was the hiring of an independent professional educator to oversee the teach-out. Vicki Goldsmith was hired by Ashford on August 9, 2006, as Director of Supervision to monitor the final coursework and student teaching of Ashford MAT candidates. Ms. Goldsmith, the 2005–6 Iowa Teacher of the Year, is a retired English teacher and served as clinical expert on six practitioner preparation visit teams during the 2005–6 school year. In that capacity she monitored 11 online courses and oversaw the student teaching supervision of 108 student teachers. Having monitored threaded discussions within the online courses, Ms. Goldsmith reinforced concern about the quality of coursework that was initially found by the State Team during the onsite visit. Ms. Goldsmith observed student teachers who were determined to be having significant problems; at Ashford's expense, Ms. Goldsmith traveled to North Carolina, South Carolina, Kentucky, Michigan, Colorado, and Georgia as well as several schools in Iowa. Ms. Goldsmith recollects that, of the 108 student teachers, eight had serious enough problems to discontinue the student teaching experience, thus disallowing completion of the program.

Regarding the student teachers, Ms. Goldsmith stated,

> "The students in the MAT program were almost all middle-aged people changing careers, people with maturity and life experience, so several of them were competent and could use past experience in their new work. One problem, however, was that since we (the Ashford faculty) had not met any of the students, it was easy for ones with significant problems to get through the program without being noticed. Had we not called attention to the poor quality of some of the courses and the poor performances of some of the student teachers, I am convinced that the ones we pulled from the program would now be licensed. . . . I was relieved that the people we pulled were not licensed from Iowa or in our classrooms."

In a recent interview Ms. Goldsmith shared this conclusion,

> "In the past 5 years I have made 14 State approval visits. I am concerned that the quality of the programs at for-profit schools is inconsistent and not on a level with the other teacher preparation programs."

As a personal point of privilege, I must note that my colleagues at the BOEE, the Department, and those on the site visit State team agree with me on an interesting dichotomy. As we have interacted with a number of individuals from Ashford over the years, we have encountered a lack of understanding of teaching and teacher preparation, arrogance and even blatant rudeness. We have, however, worked effectively with several individuals from Ashford who, personally, seem to understand teaching and preparation well and exhibit high degrees of professionalism.

PARTNERSHIP WITH RIO SALADO COLLEGE

Some months after the completion of the Ashford teach-out I contacted an Ashford official regarding a student complaint. At that time I was told about a partnership that Ashford University had forged with Rio Salado College, 1 of 10 colleges in the Maricopa County Community College District in Arizona. Education courses from the Ashford BA in Social Science with a Concentration in Education apply to Rio Salado's post-baccalaureate teacher education program. Once students have completed the online Ashford BA and the online Rio Salado teacher education program, they are eligible for an Arizona teaching license. Such a license can then be transported to another State according to each State's reciprocity/exchange policies. This partnership could be seen as a creative way to solve a problem in order to continue drawing students, or it could be seen as a way to circumvent the accountability system for quality in order to continue collecting tuition from students.

An individual who has attained an Arizona license in this way does not automatically receive an Iowa license. The BOEE is just beginning to receive applications from Iowans who have taken this route. The two following examples demonstrate the difference between an Iowa license and one attained through the Rio Salado program:

1. An elementary education applicant for an initial Iowa teaching license had completed most of her coursework in an Iowa preparation program and then completed the Rio Salado program for an Arizona license. When she applied for an Iowa license she still had deficiencies; according to a consultant at the BOEE, had she not completed the coursework that she did at an Iowa college, the deficiencies would have been considerable.

2. A current applicant for an Iowa license, having completed the Rio Salado program and holding an Arizona license, meets the requirements in Iowa for only one of the three teaching areas accepted in Arizona.

From these examples one could conclude that an individual completing the Ashford BA and the Rio Salado program would still have considerable coursework to complete in order to attain an Iowa license.

CONTACTS WITH THE DEPARTMENT WITH ASHFORD STUDENTS

At the time of the teach-out my colleague at the Department Dr. Carole Richardson and I received calls and emails from several Ashford students who were unhappy with the way they were being treated by the Ashford program. Some appeared to have legitimate complaints; some were angry that they had not been allowed to complete the program because Ashford had determined that they did not demonstrate the skills and knowledge necessary to complete student teaching and be licensed. In all cases we contacted the Ashford program in order for them to address the students' concerns.

Following the teach-out in 2006–7 Dr. Richardson and I received numerous emails and phone calls regarding the Ashford MAT Program. Phone logs indicate that, as late as the spring of 2010, my last months at the Department, I was still receiving as many as three to six calls a month. My colleagues in the BOEE, the State's teacher licensing arm, received similar numbers of calls.

Some calls were simply information-seeking; many were calls of frustration by students with stories of incurring loans and no resulting job that would enable them to make payments. Contacts with the Department have fallen into one of four categories: officials from States other than Iowa; potential education students; current non-education students; and current or recent education students. Licensure officials in several States have called to ask whether the Ashford MAT is an approved program in Iowa in order for them to determine whether or not they will issue a license to an Ashford graduate in their State. Potential Ashford students usually have the same question as those State officials; some potential students immediately determine to look elsewhere and some decide to follow the option of contacting the Ashford program to discuss the partnership with Rio Salado College. These are the fortunate individuals; they are able to prevent an ill-fated situation for themselves. At times Ashford non-education students call the Department with complaints for lack of anyone else to call, voicing complaints that I could only refer to the Iowa College Student Aid Commission.

Common complaints have included such issues as the following: inaccurate information, lack of or tardy response from the university when students attempt to ask questions or share concerns; financial issues of many types; pressure to enroll or purchase text books in short timeframes; rudeness; and general lack of helpfulness. One student summed up her experience in the comment, "That school has been a nightmare."

Calls from current or former Ashford education students may have included any of the above complaints, but more often these complaints addressed misinformation received from Ashford recruiters. As a result of the 2006 State review of Ashford University, the only Ashford program that results in qualification for an Iowa teaching license is the on-ground undergraduate program. Recruiters for Ashford University have provided misinformation to numerous individuals regarding the ability to attain an Iowa teaching license through online course at Ashford. Specifically, the following examples are representative:

1. Individuals from Iowa and many other States who had completed Ashford's online Bachelor of Arts in Social Science with a Concentration in Education. These individuals had been led to believe that, upon completion of this program, they would be eligible for a license in their home State because Ashford has a State-approved teacher education program (the on-ground undergraduate program).
2. Individuals who were students or graduates of the Ashford online baccalaureate program, but were not aware of the need to complete the Rio Salado program as well in order to receive an Arizona license. These individuals were not even aware of the Rio Salado partnership.
3. Ashford students who were intending to complete student teaching through Rio Salado College and believed they would then automatically be eligible for an Iowa teaching license.
4. Students who were completing an online degree through Ashford in early childhood and believed that this degree would lead to an Iowa teaching license. It does not.

The basic problem is the misinformation provided to potential students by recruiters who, according to conversations with an Ashford official, are paid on a commission basis. The height of ignorance and/or arrogance was evident when the Department received a phone call from one of the recruiters to chastise us for telling a potential student that the Ashford program was not approved in the State of Iowa.

A concern that my colleagues and I have discussed repeatedly over time is the question of how many other students have similar complaints, but have not voiced them to us—or to anyone else. We are concerned that we have heard from just the "tip of the ice berg."

This overriding concern regarding misinformation continues. As the Department and the BOEE have shared student stories with Ashford and have referred students to the Dean and Chancellor over the years, Ashford has made changes in their Web site that reflect more accurate information about licensure. One could argue, however, that the advertising, both on the Web site and in the media, regarding the goal of becoming a teacher via Ashford are much more visible than the single statement within a paragraph in smaller print that explains the limitations of licensing for graduates from this program. According to Administrative Consultant Susan Fischer and other BOEE officials, the BOEE currently receives up to a dozen calls a month regarding Ashford's online program.

CLOSING COMMENTS

When the bottom line dominates the decisionmaking process for educational programming, businesses providing the "service" of education will continue to circumvent a system that protects college students and potential college students. More importantly—for those of us focused on K–12 education—such shortcuts in preparing teachers, if allowed to continue and grow, will result in inadequately prepared teachers in our Nation's future classrooms.

Conscientious educators understand that changes need to be made in many of our K–12 classroom as well as in the preparation of our teachers. Conscientious educators understand that innovation and technology must be part of these changes. But change for the sake of change, change that fails to look to the future for unintended consequences, is not true innovation.

If we believe that the education of our children is the key to the future of this country, we cannot afford the preparation of our teachers to be short-changed by businesses for whom the bottom line is the "bottom line." An unbridled business model in education will lead to disaster for education in the United States.

The example that Ashford University provides is instructive. I respectfully submit that we pay attention.

The CHAIRMAN. Thank you very much, Ms. Willems.

And now we will turn to Ms. Manning, Dr. Manning.

STATEMENT OF SYLVIA MANNING, PRESIDENT, THE HIGHER LEARNING COMMISSION, CHICAGO, IL

Ms. MANNING. Senator Harkin, thank you for the opportunity to speak to you this morning on the issues that are before you. I believe they are very important.

We accredit, of our 19 States, approximately 1,000 institutions, approximately 40 of which are for-profit. I have two messages I would like to give you today. One is that accreditation does add real value within our assigned role.

The second is that our agency got a bit behind the curve when two things came together. One was the entry of large private equity funds into higher education and the other, the development of distance education into a modality that was really user-friendly and would work.

We were behind the curve. We had catch-up to do. We have done a lot of catch-up. That is my main message. There is still work ahead of us.

Let me elaborate a little bit on both those points. Accreditation, deep in its DNA, is about continuous improvement. It is about taking institutions beyond minimum requirements, and that, I believe, is the distinction between accreditation and regulation. We don't believe that minimum is good enough for America or America's higher education, and we press institutions to go further.

We have been doing this for about 100 years. About 60 years ago, Congress, looking to ensure that GI bill funds went to a bona fide education, assigned to accreditation the role of assuring the academic quality. But it assigned only academic quality to accreditation. It quite explicitly left the financial and administrative capacity of institutions, along with the integrity of that process—fraud and abuse and those issues—to the forerunners of the Secretary of Education.

That separation of roles made sense then, and I believe it still does today. We have the expertise to look at academic quality, but we do not have the authority or the tools, and shouldn't, to look at cases of fraud or abuse or the administration of Federal funds.

The story about Bridgepoint happened in 2005. I came to the commission in July 2008. In all fairness to my predecessors, I don't think they were able to foresee what would happen. When I got there in 2008, it was quite possible to see what had happened, and it was possible to see that because this thing was a new phenomenon on the face of the Earth, we did not have the policy framework and we did not have the procedures to deal with it adequately.

And so, we set about changing those policies and changing our procedures. We have done a fair amount. We have made five major policy changes. What happened in 2005 and then culminated in growth by 2009 simply could not happen today.

Just as a quick example of a couple of things, we have immensely tightened our oversight of distance education. And we have changed our process so that it is no longer a staff member who can approve this sort of change of control. This sort of change of ownership can only be approved by our board of trustees. And two cases in point, in 2010, we had two such institutional acquisitions come before us, and the board turned down both of them.

In addition to the five policy changes, we have made a good 10 initiatives to improve and tighten our standards and procedures. These include six additional standards that have just been proposed on transparency. I deeply believe that a lot of the problems you hear about come from a failure of transparency on the part of institutions. We have become very explicit about what we expect of them, and we will be able to enforce those explicit regulations.

We have a new focus on student persistence and completion. We have increased our oversight of institutions that are new to us or that have undergone a change of ownership or that are rapidly growing. And I think perhaps most important in some extent, we are developing a capacity to survey students on the Internet. We will not have to rely on the happenstance of student complaints or the students a visiting team can manage to round up on campus. We will be using the Internet to survey them and to increase our awareness of the student experience from the student's point of view.

I think, at the end of the day, everything we are about is the students. When we want quality for the institutions, we want quality for the students. It is our determined effort to do what we can to do our role as best we can.

That concludes my testimony, and I am, of course, prepared to answer questions.

[The prepared statement of Ms. Manning follows:]

PREPARED STATEMENT OF SYLVIA MANNING

SUMMARY

Accreditation is based on the belief that institutions that serve the public require rigorous review by professionals who know and care. In the 1950s, when Congress assigned to accreditation—already in existence by then for a half century—the role of ensuring that GI bill funds went to bona fide higher education, it assigned that role and only that role. Congress charged the forerunners of the Secretary of Education with ensuring that the institutions' administrative and financial capacity to manage Federal funds, including administrative and financial integrity. Those separate roles remain. Accreditation brings to the assessment of academic quality high levels of professional experience and current knowledge from thousands of volunteers in the field and members of the public.

Regional accreditation has been challenged by the emergence of large, for-profit and mostly online universities. During most of the past decade, as this emergence was happening big and fast, we did not have the policies and procedures to deal with the changes as well as we needed to. We have now put those policies and procedures in place.

These are five of these changes: (1) It is no longer possible to purchase an accredited institution for the sole purpose of acquiring its accreditation. Proposed purchases are scrutinized for continuity in the institution (no transformations) and if approved may have many restrictions applied. Decisions that once were made by staff can only be made now by the full Board of Trustees. This has had a huge effect: in 2010 we turned down two such proposals. (2) Institutions can no longer locate in a region just because they think that accreditation will be easier there—we have tightened our jurisdictional requirements. (3) Initial accreditation, never easy, is tougher, requiring a minimum of 2 years in candidate status. (4) We scrutinize major changes at institutions much more thoroughly, including growth in distance education. (5) We increased our capacity to consult legal and financial experts, especially on purchases or initial accreditation cases.

We are implementing other changes as well, including a number of new standards just published last week as our proposed revised Criteria for accreditation. Six are requirements for greater transparency: (1) Institutions must disclose publicly full descriptions of their program requirements; (2) Students must be told whether an institution as a whole is accredited *and* whether its programs have professional accreditation, especially in licensed fields; (3) Institutions must make public not only

their transfer policies but also how credit is applied to degree requirements; (4) Institutions must make public full and clear information on all costs and their refund policies; (5) Institutions must publicly disclose the names and credentials of their faculty; (6) Institutions must post telephone numbers through which students can reach them directly. Four more in the works strengthen the process: (1) Institutions are required to focus on keeping and graduating students; (2) We will be doing Internet-based surveys of students; (3) Institutions new to us, merged or purchased will be on a tighter, 5-year review cycle; (4) We are looking to give the public more information about schools in ways that people care about and can use.

Higher education is changing rapidly. We are recognizing these changes and acting on them. That is how we can help institutions serve students well.

Chairman Harkin, Ranking Member Enzi, members of the committee, thank you for this opportunity to address the important issues before you today.

My name is Sylvia Manning, and I am president of the Higher Learning Commission of the North Central Association of Colleges and Schools. We are the regional accreditor for 19 States referred to as North Central.

The administration, the Congress and the American people are increasingly concerned about the oversight of our Nation's institutions of higher education. Students, their parents and taxpayers all deserve real value for their investment of time and money as they pursue the American Dream of college education. At the Higher Learning Commission, we strive to fulfill our responsibilities to all these stakeholders.

Before I go further, let me set forth three of the underlying premises that inform our work.

- We believe the higher education enterprise as a whole faces significant challenges: problems of access, cost, consumer information and students' completion of programs.
- We believe that standards of quality must be met and continuously improved. An organization is either improving its quality or losing it.
- We believe that accreditation is part of the solution, but by no means the entire solution.

Let's start with the big picture. Accreditation is based on the belief that institutions and occupations that serve the public require rigorous review by professionals who know and care. More than 100 years ago, colleges created associations to set a common standard for college education. With time, more elaborate criteria evolved, all with the purpose of improving colleges. In the 1950s, Congress sought to ensure that GI bill funds went to a bona fide college education. Because Congress did not want an all-powerful European-model ministry of education dictating to every college, it instead entrusted the determination of academic quality to the accreditation process. It assigned to the forerunners of the Secretary of Education the role of assuring institutions' administrative and financial capacity to manage Federal funds, which of course includes administrative and financial integrity. Meanwhile, States authorized higher education operations within their borders.

As decades passed, at the behest of Congress, accreditation assumed additional tasks, such as checking institutions' compliance with certain Federal requirements. But the essential division of responsibility remained. To assess capacity for administering Federal funds and to protect against fraud and abuse, you need the authority of government. But to assess academic quality at the level of higher education, you need the authority of professional experience and current knowledge.

Here is how it works: A small staff manages a large corps of professionals from higher education—professors, college presidents and other educators—who volunteer their services. The decisionmaking bodies that act on these professionals' eventual recommendations—for example, to grant or reaffirm accreditation—also include "public" members, who have no connection to higher education but do this work as civic service.

To make their recommendations, the higher education experts review voluminous written materials, conduct site visits and write reports. An institution that applies for accreditation goes through an eligibility review and then a review to achieve candidate status. Then after 2 to 5 years in candidacy, the institution may be granted initial accreditation after another comprehensive review. After 5 years it will be reviewed for reaffirmation of accreditation. Then it enters a 10-year cycle of comprehensive reviews, but about two-thirds of our institutions have various reporting requirements during that 10-year period. We also collect data from them on an annual basis to watch for indicators that might raise concern.

What is the value of accreditation to the institutions? For some, it is access to title IV Federal funds. But getting access to funds was not the basis of accreditation's historical covenant with institutions of higher education, and it still is not. That covenant was for a shared commitment to quality. When it comes to higher education, the Nation needs more than minimum standards. "Minimum" is not how America built the best higher education system in the world, and "minimum" is not how we will sustain it.

Regulation is good for enforcing minimum standards. But the mission of accreditation is to go far beyond "minimum" to stay ahead in an ever-more competitive world. That is why colleges accept the demands of accreditation, agreeing to hold themselves accountable to the entire group. It is in the interest of every college to make and keep American higher education the best it can be. Like most enterprises, accreditation has room for improvement. But I do believe that were this role lost—the role of continuously pushing colleges and universities to be better than they are currently—the overall quality of higher education would decline, and the students would suffer.

In that spirit, I am here to discuss five major changes we have already made in the accreditation process, 10 initiatives that we are in the process of implementing, five ways in which public policies can further these changes and the cautions we must keep in mind as we move forward together.

Let me turn to the story that is on your minds. For many years, the Higher Learning Commission accredited a small Catholic university in Clinton, IA, called Mount St. Clare College and later Franciscan University of the Prairies. Like many other institutions of higher education, the University struggled with debt, declining enrollments and the likelihood that, without help, it would close. To avoid that fate, in 2005 the university sold its assets to Bridgepoint Education, which bought the university with private equity and changed the name from Franciscan to Ashford University. From 2007 onward, tens of millions of dollars in private equity transformed that small university in Iowa into a huge online entity, most of whose operations are headquartered in California.

The Commission continued the accreditation of Franciscan University of the Prairies through its acquisition by Bridgepoint and the change of name, and the changeover was never subject to the normal rigors of initial accreditation, as a new school would be. The purchase took place 3 years before I became president of the Higher Learning Commission. In fairness, my predecessors could not have foreseen in 2005 what would happen. Additionally, it is a virtual certainty that had Franciscan University of the Prairies not been purchased when it was, it would not exist today under any name. There would be no campus in Clinton, IA. As it is, there is a campus, its facilities have been improved and its enrollment has increased significantly.

That said, with a better understanding of today's transformations in higher education, in 2008 we began to develop policies and procedures to respond to them, allowing us to address such situations thoroughly and effectively. Let me explain the changes that we have made.

CHANGES WE HAVE MADE

1. ***First*** and foremost, to prevent the purchase of an institution for the sole purpose of acquiring its accreditation, a proposed purchase is subject to intense scrutiny. After the purchase the institution must remain essentially the same institution that the Commission examined when it last reaffirmed accreditation. If the purchase is approved, the approval can attach numerous stipulations as to future development of the institution, including returning the institution to candidacy status, effectively removing full accreditation. These purchases used to be approved by the Commission's staff. Now, in a major change of policy, they are subject to a fact-finding examination beforehand and a final review by the entire Board of Trustees of the Commission.

Two examples that this worked: In 2010 we had two situations similar to Bridgepoint and Franciscan. When we refused to extend accreditation under a proposed purchase of Dana College in Nebraska, the refusal attracted attention because the school unfortunately closed in consequence. There was less public attention to a similar denial a few months earlier because the school slated for purchase, Rochester College in Michigan, is still in business.

These decisions reflect our new, strengthened policy on acquisition. I am happy to provide additional details of those changes should you be interested.

2. Our ***second*** new policy was to put a halt to "forum shopping." "Forum shopping" was the practice of institutions choosing to locate in a region in which accreditation is perceived to be easier and in a State with favorable regulation and taxation. This was always impossible for an institution such as the University of Michi-

gan, because it can only exist in Michigan. But it was fairly easy for an institution operating in several States, especially for an online institution. We made "forum shopping" in our region impossible for all institutions by tightening our jurisdictional requirements. Under new bylaws, institutions must both be incorporated in our region and have substantial operating presence in our region.

3. ***Third***, we made initial accreditation tougher. It used to be that an institution could bypass the candidacy period and go directly to full accreditation. We now require that an institution spend a minimum of 2 years in candidacy before applying for initial accreditation. This mandated candidacy lets us get to know the institution well, thus strengthening the determination as to whether it deserves accreditation. Accreditation has never been easy or automatic. In the past 10 years, 120 institutions came to us seeking accreditation. Of those 120, today 37 are accredited, 34 are still somewhere in the application process (and may or may not get accredited) and 49—or 40 percent—have been denied or discouraged and are no longer at our doorstep. We ensure that undeserving institutions do not receive accreditation.

4. ***Fourth***, we apply greater scrutiny to major institutional changes such as development of programs at a new level (for instance, beginning to offer master's degree programs), new sites of instruction, change of mission or student body and initiation or growth in programs delivered through distance education.

5. ***Fifth***, we increased our capacity for consulting legal and financial experts as we need them, particularly in cases of change of control and initial applications for accreditation.

CHANGES WE ARE MAKING

Now, for the changes that we are making. Last week we released a proposed revision of our Criteria for Accreditation, the result of more than a year's work in reviewing our standards. We are implementing 10 new requirements. The first six advance transparency:

1. ***First***, institutions need to disclose full descriptions of their program requirements to the public.

2. ***Second***, students must be made aware not only of whether an institution as a whole is accredited but also whether its programs have professional accreditation, especially when licensure requires completion of a professionally accredited program.

3. ***Third***, institutions must make public not just their transfer policies, which Federal regulations now require, but how credit is applied to degree requirements. And they must make no promises to any individual student regarding credit for prior work unless and until an evaluation has been completed.

4. ***Fourth***, institutions must make publicly available full and clear information on all costs and their refund policies.

5. ***Fifth***, institutions must publicly disclose the names and credentials of their faculty.

6. ***Sixth***, institutions are required to post telephone numbers through which students can reach them directly.

In addition:

7. ***Seventh***, the new criteria bring new focus on keeping and graduating students. We will require institutions to pay greater attention and report on what they are doing. We will also analyze the data we collect annually from institutions to determine when it is time to look more closely at their persistence and graduation rates.

8. ***Eighth***, we are developing the capacity to survey students extensively. Hitherto, accreditation has relied on the happenstance of student complaints and on interviews with students during campus visits by accrediting teams. The ease of Internet surveying will allow us to reach large numbers of students.

9. ***Ninth***, we are strengthening our oversight of institutions that are newly accredited, that have recently undergone a change of control (e.g., a merger, acquisition or change of structure), or that are rapidly changing. They will undergo a comprehensive review every 5 years, not 10, and will be subject to midpoint review.

10. ***Tenth*** and finally, we, the accreditors, need to be public about more of our findings. Many will point out that families are already inundated with more information on colleges than anyone can deal with. We need to figure out and provide the information that will be meaningful to a general public, and we intend to do so.

HOW PUBLIC POLICIES CAN HELP

I'd like to spend a few minutes on how Congress, the administration and other policymakers can help us do better.

1. ***First***, the Department of Education collects data from institutions through its Integrated Postsecondary Education Data System (IPEDS). While it is in everyone's interest that we all use the same data, there are some things that are inadequate. For example, we need student retention and graduation rates based on contemporary student attendance patterns to improve our oversight.

2. ***Second***, the 2008 Higher Education Opportunity Act made it more difficult for accreditors to withdraw accreditation from an institution. While we accept the importance of due process, future legislation need go no further in that direction. Instead, I respectfully suggest that accreditors be afforded some safe harbors from ruinous litigation that may now be initiated when we take tough, but necessary, adverse action.

3. ***Third***, just as we are building stronger ties to the State higher education authorities in our region, it would be helpful for us to be better informed when the Department of Education or the Inspector General has concerns about the behavior of an institution that would bear upon our standards for institutional integrity, enabling more of a partnership toward common goals.

4. ***Fourth***, we are hampered in our efforts when institutions can settle charges of non-compliance with Federal regulations simply by paying fines. When an administrative agency or court declares no findings as part of a negotiated settlement with no admission of liability by the institution being investigated, the institution is effectively absolved, leaving the accreditor no record upon which to build a case for non-compliance with, for example, standards for integrity. It would be helpful if fines were large enough to be effective deterrents, and settlements stuck by the findings in the case.

5. ***Fifth***, Peter McPherson, president of the Association of Public and Land-Grant Universities, has suggested another type of action against institutions that have violated Federal requirements with regard to financial aid. The idea is to penalize institutions by limiting for some period of time the number of students on Federal financial aid that the institution is allowed to enroll. In some ways similar to the NCAA penalties of limiting athletic scholarships, this is a proposal well worth consideration.

Finally, as we work with Congress and the administration to promote quality and accountability, I would ask that we keep the following cautions in mind:

- The vast majority of institutions of all types today offer courses and whole programs on the Internet. The larger for-profits have attracted attention for their scale, but there are very large programs at traditional institutions as well. Distance education is the most powerful invention for increasing access to higher education since the light bulb. Skillfully and ethically used, it has the potential to exceed the access created by the Morrill Act, the establishment of community colleges and the GI bill, especially for rural areas. If there are problems with distance education, it is not with the modality itself but in how the modality is used or exploited.
- Both accreditors and regulators need to be cognizant of the ever-present potential for collateral damage. Laws or regulations designed with bad actors in mind often can create more damage for good actors than impediments for bad actors. I have pleaded before, and do so again, that whatever laws or regulations are devised be tested especially for their effects on small colleges. Hundreds of these colleges do wonderful work with small budgets and create great value for their students and the often-limited regions in which they are known, and they can be enormously impacted by regulation designed with other types of institutions in mind.

If our economy is to become more competitive, our middle class to thrive and grow and our democracy to become even more inclusive and vibrant, our Nation has no higher priorities than expanding access to our institutions of higher education and enhancing their quality. That is why we must continue to improve the oversight of our colleges and universities and to spur their improvement. Higher education has changed rapidly and will continue to change. We recognize these changes, and we are acting on them, enabling us to help institutions serve their students well.

Thank you again for the opportunity to be with you today. I would be happy to answer any questions you might have.

The CHAIRMAN. Thank you very much, Dr. Manning.

And now, Dr. Cruz, welcome and please proceed.

STATEMENT OF JOSÉ CRUZ, VICE PRESIDENT FOR HIGHER EDUCATION POLICY AND PRACTICE, THE HIGHER EDUCATION TRUST, WASHINGTON, DC

Mr. CRUZ. Good morning, Chairman Harkin, and thank you for the opportunity to testify before you on the impact of the for-profit college sector on low-income and minority students. The Education Trust, as you know, is a research and advocacy organization that promotes high academic achievement for all students at all levels, pre-kindergarten through college.

While many organizations speak up for the adults who, as employees or, increasingly, as shareholders, have financial interests in schools and colleges, we at the Ed Trust speak up for the most vulnerable, the low-income students and the students of color, regardless of age, whose academic interests are so often ignored.

Our November 2010 report, "Subprime Opportunity," examined the troubling graduation rates and debt burdens incurred by students who entrust their futures to for-profit college companies. While I will not delve into all of the details, I do want to share some of our key findings.

The for-profit sector, beyond what we have seen today here for Bridgepoint, has experienced massive growth. Between the 1998 and 2008 academic years, enrollments at for-profit college companies grew by 236 percent. These college companies target the underserved. More than one in four black, Hispanic, and low-income students now begin their college careers at for-profit colleges.

At for-profits, success rates are low, and the costs are high. The median debt of the one in five who manages to earn a bachelor's degree from these colleges is over $31,000. That is four times the average debt of those that graduate from public colleges and twice that of those graduate from nonprofit colleges.

The for-profit college sector takes a disproportionate share of our Federal financial aid dollars. For-profits represent only 12 percent of enrollments but receive 24 percent of Pell grants and Federal student loan dollars and are responsible for 43 percent of Federal student loan defaults. The full report is submitted as part of my written testimony.

It is important to note that the Education Trust is not the only organization to have examined the practices and student outcomes in the for-profit sector and to have come away deeply concerned for students and for the Nation. More than 50 groups—civil rights, education, consumer, and student groups—are resisting the for-profits' aggressive campaign to obtain immunity from accountability in exchange for what at best can be described as the illusion of choice and opportunity.

But rather than recite the concerns of this broad coalition, let me instead offer an explanation of the underlying problem. The problem, Mr. Chairman, is not one of "lax regulation," as this wording implies that the problem can somehow be fixed by enforcing existing regulation. The problem is, as engineers like to say, structural.

Our higher ed regulatory structure is built upon the three pillars represented here today by my fellow panelists—Federal regulation, State regulation, and accreditation. These pillars are expected to distribute the load of the many forces that put undesirable pressure on higher ed institutions. But as has been said before, during

the past 20 years, the rapid growth of the for-profit college sector has placed undue pressure on the regulatory structure supported by these pillars, overwhelming their capacity to fulfill their mission.

The case of Bridgepoint, Inc., subject of today's hearing, is a good example of why for-profit college companies demand a new attention and a new approach to regulation. Inaction is not an option.

At a time when the world is demanding more of students, we cannot expect less of the institutions that seek to educate them. At a minimum, the Education Department must be allowed to define standards by which to enforce longstanding regulations that require all career colleges interested in Federal subsidies to prepare their students for gainful employment.

We must also take a hard look at the apparent willingness of accrediting agencies to accept as proof of academic quality an institution's ability to manage and navigate and even game the bureaucratic intricacies of the accreditation process.

Finally, we need to identify and eliminate the perverse funding incentives that encourage for-profit colleges to invest more on marketing, recruitment, and shareholders than on instruction and student support services. After all, Mr. Chairman, choice and opportunity as concepts, as values, as concrete manifestations of the American dream deserve more respect.

Thank you.

[The prepared statement of Mr. Cruz follows:]

PREPARED STATEMENT OF JOSÉ CRUZ

Chairman Harkin, Ranking Member Enzi, and members of the committee, thank you for the opportunity to testify before you on the impact of the for-profit college sector on low-income and minority students.

The Education Trust is a research and advocacy organization that promotes high academic achievement for all students at all levels—pre kindergarten through college. While many organizations speak up for the adults who, as employees or shareholders, have financial interests in schools and colleges, we at the Ed Trust speak up for those that are most vulnerable—low-income students and students of color—whose academic interests in those schools and colleges are so often ignored. Indeed, we evaluate every policy, every practice, and every dollar spent through a single lens: will it benefit students by raising achievement and closing gaps?

In recent years, this lens has earned us a reputation—rightly or wrongly—as an organization that is very critical of public and non-profit colleges that do not do well by students. Many of our publications have focused attention on flaws in institutional policies and practices. For example, our report "Engines of Inequality" examined how financial aid policies in public universities have limited student access and success, making it harder for low-income and minority students to obtain a postsecondary credential. We have also, however, identified and praised institutions that intentionally pursued a culture of success for all their students. And we have worked with institutions committed to diagnosing their problems and improving their level of service to the underserved.

Given this history, it was only natural that eventually we would examine the for-profit college sector.

Our November 2010 report, "Subprime Opportunity," examined the graduation rates and debt burdens incurred by students who entrust their futures to for-profit college companies. While I will not delve into all of the details, here are a few of our key findings:

- The for-profit sector has grown substantially. Enrollments at for-profit colleges grew by 236 percent between the 1998 and 2008 academic years.
- The for-profit sector targets the underserved. More than one in four black, Hispanic, and low-income students now begin their college careers at for-profit colleges;
- The success rates are low and the costs are high. The median debt of the few students who do manage to earn bachelor's degrees at for-profit colleges—only about

one in five first-time, full-time freshmen—is over $31,000—four times that of graduates from public colleges.

• The for-profit sector takes an overwhelmingly large slice of our Federal financial aid programs. For-profit colleges represent 12 percent of enrollments, but they receive 24 percent of Pell grants and Federal student loan dollars, and are responsible for 43 percent of Federal student loan defaults.

The full report is submitted as part of my written testimony.

It is important to note that the Education Trust is not the only organization to have examined the practices and student outcomes in the for-profit sector and to have come away deeply concerned for students and for the Nation. More than 50 civil rights, education, consumer, and student groups have joined together to resist the for-profits' aggressive campaign for immunity from public oversight accountability.

But rather than recite the concerns of this broad coalition, let me instead offer an explanation of the underlying problem.

The problem, Mr. Chairman, is not one of "lax regulation"—as this wording implies that the problem can be fixed simply by enforcing existing regulation. The problem is, as engineers like to say, structural.

Our higher ed regulatory structure is built upon three pillars: Federal regulation, State regulation, and accreditation. These pillars were designed to distribute the load of the many forces that put undesirable pressure on higher ed institutions, to mitigate any long-term damage to the structure itself.

Federal regulation assumes the fiduciary load. The Department of Education's role is to be a good steward of the Federal dollars that flow to colleges and universities, primarily through title IV. State regulation assumes the consumer protection load. Most State higher education agencies focus primarily on ensuring that students receive accurate information about each institution and its programs. And accreditation assumes the threats to academic quality load. Through the peer review process accreditors purport to ensure that institutions offer high quality programs.

But during the past 20 years, the rapid growth of the for-profit college sector has placed undue pressure on this regulatory structure—overwhelming its capacity to fulfill its mission. Federal regulation has lacked a strong enforcement arm, State regulation has not traditionally focused on outputs such as student achievement, and accrediting agencies have been overwhelmed with the rapid growth of non-traditional educational organizations, whose size and methods of educating are unfamiliar and demand protocols of assessment that accrediting agencies have historically lacked.

Who could have foreseen, 20 years ago, that a group of investors would purchase small, well-established, fully-accredited, but financially troubled postsecondary institutions, intending to exploit their history and physical presence to build billion-dollar, publicly traded, for-profit college companies? Yet that is precisely what has happened in the case of Bridgepoint, Inc.—owner of Ashford University and the University of the Rockies. In just 6 years, Bridgepoint, Inc. has grown the enrollment of Ashford University by 17,000 percent.

Bridgepoint has achieved operating profit margins that exceed those of Apple and Hewlett Packard. But, according to the investigations of this committee, it has done so at the expense of many of its students—churning through 84 percent of their 2-year and 63 percent of its 4-year students within these students' first year of enrollment.

Who could have foreseen, 20 years ago, that one of only six regional accrediting agencies recognized by the Education Department would be so elastic in its definition of academic quality in this new profit-driven environment? The Higher Learning Commission of the North Central Association of Colleges and Schools is an accrediting agency responsible for over 1,000 institutions that, in 2008 alone, held the keys to over $27 billion of the $75 billion in Federal title IV financial aid. But, when faced with evidence of the rapid growth, low graduation rates, and high withdrawal rates at Ashford, HLC's evaluators—over the course of multiple reviews—found no problems and the school has remained accredited. It must make us wonder about the quality of those reviews—and the ability of the entity leading them to understand all of the complexities presented by a for-profit institution.

But it doesn't much matter today if these corrosive forces, these stresses and strains, could have been predicted. The fact that they are present should be enough for us to recognize that it is time to reinforce the structure in those areas where it is most vulnerable, so that we can be capable of redesigning and rebuilding it for the longer term. Doing otherwise exposes our higher education system to the danger of total collapse.

Clearly, for-profit college companies demand new attention and a new approach to regulation.

At a minimum, the Education Department must be allowed to define standards by which to enforce long-standing regulations that require all career colleges interested in Federal subsidies to prepare their students for gainful employment—this will help ensure that Federal aid dollars are used to pay for programs that actually lead to gainful employment and not just to heavy debt burdens.

We must also take a hard look at the apparent willingness of accrediting agencies to accept an institution's ability to manage the bureaucratic intricacies of the accreditation process as proof of academic quality. For instance, you might consider prohibiting the transfer of accreditation with a transfer of ownership from a nonprofit entity to a for-profit entity. New owners would have to reapply for accreditation as if the institution had not been accredited before. You might also consider requiring accreditors to consider student outcomes data such as completion rates, placement rates, and cohort default rates before they grant or renew institutions' accreditation.

Finally, we need to identify and eliminate the perverse funding incentives that encourage for-profit colleges to invest more on marketing, recruitment and shareholders than on instruction and student support services. In doing so, we must strengthen consumer protections for our most vulnerable students.

Preserving our higher education structure also requires that all of the players within that structure get serious about student success. For proprietary colleges, that means delivering on the promises of opportunity they are making to students and taxpayers alike. The promise is clear and unambiguous, seen in the recruitment ads depicting happy graduates working in state-of-the-art jobs they acquired thanks to their newly earned for-profit college degrees. The ads of course do not include the "results not typical" or "individual results may vary" disclaimers we are accustomed to seeing when the exception, rather than the rule, is showcased. But, unfortunately, they do present the exception. The data show that rather than getting a relevant credential and a job that pays a living wage, too many students walk away from these institutions with nothing but excessive debt and, ultimately, blame for their institutions' low graduation and high loan default rates.

Our country's long-term economic competitiveness depends upon the shoring up of our higher education structure. At a time when the world is demanding more of students—higher degrees, more sophisticated knowledge—we cannot expect less of the institutions that seek to educate them. Choice and opportunity—as concepts, as values, as concrete manifestations of the American Dream—deserve more respect.

Thank you.

The CHAIRMAN. Dr. Cruz, thank you very, very much. Thank you all for your excellent testimonies.

Let's begin a round of questions. Let us see if we can elicit some more information here.

Dr. Willems, it sounds like Ashford University was able to, in your words, creatively get around the problem of not having their online MAT program—that is your Master of Arts in Teacher program—approved. If these for-profits can just shop around States to find the most lax regulatory environment, what does that mean for the students?

Ms. WILLEMS. Well, it means that college students cannot be assured of a quality education. And when applied to our teacher preparation, it also means that our preK–12 schools cannot be assured of quality teachers.

This proliferation of online preparation and the resulting increase in teacher preparation, transporting licenses across States is really increasing the issue of quality control. And what it comes down to is, eventually, we will be looking at the lowest common denominator.

The CHAIRMAN. Ashford University is accredited by the Higher Learning Commission, Dr. Manning's outfit. Ms. Willems, what do you make of the fact that Ashford University is accredited, that you found serious concerns with the online Master's of Arts in Teaching program? And why aren't you concerned about the quality of teach-

ers that Ashford University is preparing through its online MAT program?

And again, for my own State, what does it mean for the future of our teaching workforce in Iowa and across the country? In other words, what do you make of the fact that AU is accredited, but you found serious problems with their online MAT program?

Ms. WILLEMS. We did.

The CHAIRMAN. How do you square that?

Ms. WILLEMS. Well, I can't speak for the Higher Learning Commission, of course, but I certainly can understand that it is impossible for a regional accrediting body to conduct the same type of review that we conduct on a program. They are looking at an entire university. We are looking at a specific program. But perhaps increased cooperation, communication between the accrediting entities could be valuable to that.

As far as your question about the quality of teachers, research tells us that the singular most-critical factor in preK–12 education is the classroom teacher. The Ashford/Rio Salado partnership does not meet the Iowa standards for preparation of those teachers, and these standards and rules exist only for quality control. And when that quality control is missing or decreased, a State and the Nation cannot be assured of high-quality teachers.

The CHAIRMAN. Do you have any idea why Ashford University entered into a partnership with Rio Salado College? In other words, they had an existing program. You talked about urging them to improve their existing program.

Ms. WILLEMS. Yes.

The CHAIRMAN. But instead of doing that, they then went to Rio Salado.

Ms. WILLEMS. Right.

The CHAIRMAN. Any thoughts on that?

Ms. WILLEMS. My guess is that improving the program, and basically, the issue was the clinical. That is very expensive. It would have been probably financially prohibitive because our issue was that they were not supervising the student teaching, the clinical experiences appropriately. And that would be very expensive to do across the country. So I would think that that was their issue.

The partnership for them was probably a very creative solution. The problem was that they did not consider or perhaps they didn't care about the ramifications of licensure for students who are prepared across the country.

The CHAIRMAN. We will come back. I have some more questions, but I want to shift to Dr. Manning here on this accreditation.

I looked at the accreditation, the peer review that you had done from HLC on Ashford University. Correct me if I am wrong, but there were three inspectors or reviewers—I don't know what you call them. Two of the three were from for-profit colleges. Is that correct?

Ms. MANNING. You are talking about the post-IPO review? Is that correct?

The CHAIRMAN. I think so.

Ms. MANNING. Yes.

The CHAIRMAN. This was 2009, a 2009 HLC visit, report of a visit for institutional change of control, Ashford University. Visiting

team members, there were three, and two were from for-profit schools. Is that right?

Ms. MANNING. That is correct.

The CHAIRMAN. Do you think that is good peer review?

Ms. MANNING. No.

The CHAIRMAN. Well, this was done in 2009.

Ms. MANNING. That was done in 2009, and we have always had—in any peer review, we have always made sure that there was one or two representatives on the team, depending on how large the team was, that was from a like institution. And I have always had a lot of sympathy with that, not being happy when I was running an institution with a medical school, I got a team that had no one on it who had a clue what it was like to run a medical school.

In this particular case, frankly, as I look back on it, we had a disproportion. We only had three people. I would have preferred to have the balance not one-to-two, but two-to-one. This question of assigning peer reviewers is something that we are in the process of reviewing and revising.

The CHAIRMAN. I appreciate that. Let me read also from this document, the analysis. It said, "The team also reviewed the impact"—I am just reading from this.

> "The team also reviewed the impact of rapid and significant growth at Ashford University, given the recent surge in Ashford's online student population. The team finds that the quality of instruction, instructional and support services"—I want to emphasize that—"instructional and support services are growing as Ashford enrollment expands. Quality is maintained. Sufficient faculty and support resources are provided to deliver a quality learning experience for the students.
>
> "Growth is being experienced in both online and on-campus. Online faculty, students, and staff articulated no impact from growth. Campus students"—campus students—"campus students articulated familiar concerns regarding growth—limited parking and challenges finding parking, overcrowding in the cafeteria, limited computer access in libraries and designated resource centers."

Essentially, what this states is that educational quality at Ashford is fine, except for the parking and the cafeteria. Yet according to the data provided by Ashford, which I pointed out here, 84 percent of bachelor students and 63 percent of 4-year students dropped out within a year. How do you reconcile those facts and that data with the statement I just read from the analysis?

Ms. MANNING. Senator, I have not seen the last data that you quoted, and so it is very difficult for me to respond directly to that.

The CHAIRMAN. Put that chart up there.

Ms. MANNING. I have—somebody has handed me something on paper that I can read, but——

The CHAIRMAN. What is it that we need to provide for you? Because we have all of the documents from Ashford, from Bridgepoint.

Ms. MANNING. And we——

The CHAIRMAN. This is their own documentation, not mine. That is theirs. I guess what I am asking, let me just see if I am making myself clear.

Ms. MANNING. Mm-hmm.

The CHAIRMAN. The statement that I read from the analysis says, basically, everything is fine, except parking and the cafeteria and computer access. Yet the data that we have from Ashford shows that in the bachelor's program 63.4 percent, in the associate's program 84 percent dropped out within a year.

How can you reconcile that data with the fact that the quality of instruction and instructional support services are growing and sufficient faculty and support resources are provided to deliver a quality learning experience?

Ms. MANNING. And if, indeed, it turns out that those were students who dropped out because of dissatisfaction with the program or inability to complete. And in other words, there is always a big question about what is in the denominator when you come out with one of those numbers.

But that if, indeed, it turns out that those are the data and that students didn't complete their programs and so forth, then I think those numbers are irreconcilable with what we have. And these are not numbers that we had, and I would very much like to have them.

I would also say that under our new criteria, the revision that we are in the process of putting in place——

The CHAIRMAN. I am sorry go ahead.

Ms. MANNING. Oh, that is OK. There will be much greater emphasis on student persistence and completion. Frankly, that was one of the things that, from the traditional context that we came from, we had assumed. We need to place much more emphasis on that and to require our institutions, above all, to place much more emphasis on that. We will be doing that.

Also, of course, the comments about parking and the cafeteria are the on-ground campus. Students on the Internet don't worry about parking, and that is why it is becoming very important for us to be able to survey students and get those kinds of responses directly from them to get a better understanding of what they are thinking and what they are finding.

The CHAIRMAN. Now, Dr. Manning, I have here again a document from Ashford, which we requested. They gave us the documentation. And they claimed this is data that was provided to HLC. Is that it right there? Yes.

Yes, data provided to HLC, and you will see that full-time entering undergraduates, up on top, the retention rate. If I am not mistaken—full-time entering undergraduates, on the bottom. First-time entering undergraduates, retention rate—white, 46 percent; black/nonHispanic, 35 percent; Hispanic, 39 percent; Asian or Pacific Islander, etc, etc.

All these retention rates are below 50 percent. They tell me that they provided this document to HLC. So your reviewers would have had this document. So, again, I am wondering how you can reconcile accreditation based upon quality and support services when you have less than 50 percent retention rates for first-time entering undergraduates?

Ms. MANNING. That is a huge problem, and it is a problem across higher education. It is a problem that is more acute in the online environment. It is a problem that is more acute with nontraditional students. But it is, I think, the greatest problem that is facing us.

As a country, we have made a commitment, a democratic commitment to opportunity for students, all kinds of students—students who come out of lousy high school systems, students who are adults and have basically long forgotten what they did in algebra—for good reason, because it didn't really do them much good. And the consequence of that is that you are going to have a lot of students who aren't able to handle it.

Now I will tell you one problem that I think, again, we are turning to fix. In our previous standards, we had assumed that the first thing that would happen when a student, particularly with a nontraditional background of any sort, came to college is that the students would be tested. And if they weren't able to do the work, if they didn't have the skills, then they would be placed in appropriate remedial courses.

That has not happened, as it turns out, adequately in the distance environment. Those things are a turn-off to students. If they don't—if they are going to have to take a remedial course, unfortunately, being unenlightened, they go somewhere else where they don't have to take the course. What we are going to do is we are going to require that there be that sort of testing and placement and remediation because that is one of the large reasons they drop out.

Other reasons, of course, have to do with finances and the fact that nontraditional students always find—not always find, more often find that life interferes with being a student, and you see large dropout rates. I saw that at the University of Illinois-Chicago, too. A very traditional institution, we served students in the greater Chicago area, but they had very special challenges.

The CHAIRMAN. A difference here between the University of Chicago or University of Puerto Rico or University of Iowa or wherever, grant you, there are problems with dropouts, especially with people who aren't prepared. And people who are online with some of our community colleges and others, I understand that, not in this realm.

I guess one of the differences is the University of Chicago's bottom line is not a profit. This bottom line is profit. As Ms. Willems said—am I correct, Ms. Willems—that the president told you that their business—what did he say? The business model was the bottom line?

Ms. WILLEMS. That is what he told me my first meeting with him.

The CHAIRMAN. See? And so, when you have a Wall Street investment firm, Warburg Pincus, who owns 63 percent of Ashford, I mean, they want to make their investors happy. They went public and got their shareholders. They want to meet those shareholders' quarterly marks. That is their first and most important thing, and that is the difference and a lot of the difference here that we see.

Now here, now that is not—the other thing I wanted to point out, Dr. Manning, is this. And again, in this analysis, what caught my

eye was when it said support services are growing. Support resources are provided.

Yet we know from internal documents that while Ashford has 1,700-some recruiters, they have one placement officer. How could HLC possibly say—how could they say they have adequate support services when they have one placement officer for 78,000 students? I am baffled by this.

Ms. MANNING. Let me respond also to your earlier remark at the beginning of this, which has to do with the profit incentive and the fact that the incentive can work in the wrong direction relative to quality of education.

I thoroughly agree with you. Our job, I believe, is to pull in the other direction, just as it is the job of the Federal authorities to assure that there aren't any consequent abuses of Federal financial aid. I simply want to restate that and to say that what we are doing by making increasingly explicit requirements, in a sense, minimum requirements for what is offered to students and how students are handled, that is exactly what we are attempting to do.

We traditionally have not had that much emphasis on the placement service. Our focus has much more been on the educational services that get students through the program.

It is obviously appropriate to have placement officers. Although frankly, even traditional institutions—my own institution, for example, my past institution, we attempted to go into distance education in a big way because we thought, as a land grant university, that this was the way finally to really fulfill our land grant mission, to reach out to people who couldn't come to Urbana-Champaign or Chicago, where we had campuses.

But when we did that, we did not expect to be having placement services in Quincy, IL. We were trying to make our educational services available to them, but not the kind of things like placement services. And I think that when you think of an institution drawing on a national population—and again, at the University of Illinois, we drew on a national population in our distance education—that placement becomes a little less clearly understood.

I could place students in Chicago. I could not really do much to place a student from name any other State who would choose to enroll in the program at distance.

The CHAIRMAN. Well, at other universities—I just have Iowa here—the number of career service employees are more than one.

Ms. MANNING. Yes.

The CHAIRMAN. Much more than one for much less number of students. One of the reasons I am concerned about the accreditation process is that in an earlier hearing that we had, Dr. Manning, the GAO had done this investigation, undercover investigation, which, by the way, they have stood by, regardless of what has been said. They stand by their findings. The tapes are available.

There was one school—Westwood? Westwood, out in Denver, if I am not mistaken, in which the accrediting agency—it wasn't yours, it was another accrediting agency—had gone in there and found that everything was fine. Just about the same time, the GAO was there and found all of these problems and misrepresentations and everything.

I asked the individual—I am sorry, I can't remember his name now—who was from that accrediting agency how that could possibly be? So you can understand why we are somewhat concerned about what is happening with accreditation and what accrediting agencies are looking at and whether or not they are really fulfilling their responsibility in this new regime that we have, in this new regime of online schools out there.

So, I think that is another area where this committee is going to have to take a look and see, and I am just—I am also curious as to why out of 24 publicly traded companies, 18 of them sought accreditation with HLC, 18 out of 24. That sort of raises some red flags in my mind.

Dr. Cruz, could you just respond to the exchanges we had here and in terms of support services and whether or not accrediting agencies are doing their job? Could you just talk to us about that?

You said one thing that really struck me because I hear this all the time. People say, "Oh, Senator Harkin, there are just a few bad actors out there. Just one or two, you get rid of them, and you are fine."

Yet you said that the abuses are structural, not just a result of lax enforcement. Could you expand on that, please?

Mr. CRUZ. Sure. I think, basically, that what we have, as we have seen here today, those entrusted with enforcing regulation through the current structure are doing the best they can.

The situation that we are looking at is one where there is a fundamental problem, and that is that this structure has been built under different premises, on the premises of having academic institutions that are particularly focused on student success, academic institutions that operate in a timescale that is very leisurely—it is an academic year—for institutions that include the concept of shared governance, where the faculty and the students and the administrators have some levers that they can pull in order to ensure that quality is maintained.

When you look at the for-profit college sector, however, the premises are no longer there. There is not a concept of shared governance, per se. There is not a focus on long-term quality. There is more a focus on short-term profit.

And when you try to regulate or do some quality control on the institutions whose profile is not consistent with the premise upon which you built these regulatory agencies, you are going to come away with problems. Just an example, when successful institutions—and they could be public, nonprofit, or profit—look at the data, look at data such as that you have shown here today, probably their first reaction would be to try to identify where the problems are and what they can do, how much more they can invest in programs and support services for students so that they can retain those students.

They do not interpret the data through a different lens that takes them to the conclusion that maybe what we need to do is recruit five more students for every one we drop so that we can meet our quarterly projection earnings.

So I think that, ultimately, it is about the fact that, for some reason, we have something that doesn't look like a duck, doesn't swim like a duck, doesn't quack like a duck, but we feel compelled to

treat it as one. For-profit entities are very different. It doesn't mean that they are worse or better. And they should be treated differently, and that doesn't mean that they need to be treated unfairly.

The CHAIRMAN. Mr. Cruz, as I pointed out on the floor of the Senate one time, and I used the documents that we had from some of the for-profit schools. For example, Bridgepoint spends an enormous sum on staffing call centers to contact leads, sign them up for class.

One document is a training presentation that instructs these recruiter employees, "If you do not discover what pain they are avoiding or what pleasure they are seeking, you do not know why the students really wants their degree." Now I have seen this kind of language at other schools about finding the "pain points" as well.

How do you view this kind of approach in getting a student to sign up for a school? I mean, I never thought—I guess I never thought of pushing a student's pain points.

Mr. CRUZ. Well, I think that, in general, anybody—the only thing they could say is that it is inappropriate. I personally find it particularly inappropriate coming from those that claim to be the sole purveyors of choice and opportunity for the underserved. I would have nothing more to say on that.

The CHAIRMAN. Well, I have some more questions I want to follow up on. We have been joined by colleagues, and I will call them in order of appearance. It would be Senator Hagan and Senator Blumenthal and Senator Merkley.

Senator Hagan, did you have some questions?

STATEMENT OF SENATOR HAGAN

Senator HAGAN. Yes. First of all, Mr. Chairman, I really do appreciate you calling this hearing. And I appreciate the testimony of the witnesses here.

I did want to ask Ms. Manning a question. As an accreditor of for-profit institutions, in your testimony, you state three underlying premises that inform your work, and that higher education, as a whole, faces significant challenges including, problems of access, cost, consumer information, and students' completion of programs.

I want to look at cost for just a minute. Do you factor in the compensation made to the executives of the institutions? Andrew Clark, it appears, in 2009 received $20.5 million. Four other executives received a total of, counting his compensation, close to $37 million for this institution, at I believe it was Bridgepoint.

As an accreditor, how much weight do you give to executive salaries, versus the compensation for faculty?

Ms. MANNING. Let me say first that when I listed those four areas as particular challenges for higher education, cost is not one of the issues that the accreditation has looked at particularly. That is to say we accredit very expensive, high-end private and highly respected institutions like Northwestern University, which are very expensive. And we accredit community colleges, which, hopefully, will remain quite reasonably costed. And we don't factor in that into the accreditation consideration, rightly or wrongly.

My comment, there really was more in recognition that the issue of the price of higher education has become one of the very difficult

issues for the American public, and we do believe that higher education as a whole needs to address it.

Senator HAGAN. Do you know what the president of Northwestern makes?

Ms. MANNING. No, I don't. I am sure it is less than $20 million.

Senator HAGAN. Do you look at the faculty salaries when you are determining accreditation?

Ms. MANNING. No. We look at faculty qualifications, not at the salaries.

Senator HAGAN. Why not?

Ms. MANNING. In part because the salaries are determined by very different factors. If you can get good faculty and you are not paying them that much, we don't see that as a problem.

I can tell you that when I was the chancellor of a public institution that was steadily losing State support, I found myself in a position where the private institution in my hometown was recruiting faculty away from us at will because the differential in salaries had gotten up to 30 percent. And yet I don't think that that was any circumstance that was leading us to lower our quality. It was simply making life tough and difficult.

Senator HAGAN. I know that times are especially tough in States, especially those with so many excellent community colleges and State universities. I think that the cost of education is something that students are obviously concerned about. I think when you factor the cost of education in, you also have to factor in faculty salary. And we obviously all want to pay our faculty more.

But I have to admit, I am absolutely flabbergasted that when I look at an institution that receives 90 percent of their funding from public dollars, and have the salaries and executive compensation demonstrated here. When I see what is going on around the country, talking around public employees, I think most people would be aghast to hear the unbelievable compensation figures that I have read today.

Ms. MANNING. I do not disagree with you.

Senator HAGAN. Well, it seems to me, from an accreditation standpoint, this is an issue you should be looking at. Particularly, when the student's cost is paramount of competition, whether it is community colleges, State universities, private universities, and for-profit universities, competition should come into play when you are looking at accreditation.

I know that the accreditation agencies are private, independent entities linked to the Federal student financial aid program and that institutions eligible for title IV funds have got to be accredited by an accreditation agency recognized by the U.S. Secretary of Education. And in my opinion, when Federal dollars are involved, there needs to be oversight. There needs to be oversight on how all of this money is spent and by whom.

And that said, could you please describe the process by which the U.S. Secretary of Education ensures that as an accrediting body, that you are providing an impartial and responsible review of an institution's practices, as well as academic and financial standards?

Ms. MANNING. Yes, in brief, I can. We undergo a review every 5 years by the Department of Education. A review that culminates in a recommendation from the National Advisory Committee on In-

stitutional Quality and Integrity, otherwise known as NACIQI, to the Secretary as to the renewal of a recognition, which is good for 5 years. There are also often findings of noncompliance, and an accrediting agency will be given approximately 12 months normally to come into compliance.

On the financial side, however, a great deal of the authority and the responsibility for investigation of institutions falls to the department itself. And so, they do not review us on those responsibilities that are held by the Financial Services Administration.

Senator HAGAN. You have also mentioned that the Higher Learning Commission is working to build stronger ties to the State higher education authorities in your region, and I think that that is important. In fact, I am told that in the 2 years that the executive director of the State approving agency in North Carolina, through you all, has been in this position, he has never directly spoken to anyone from the regional accreditation agency that has jurisdiction over North Carolina schools. And I think this is troubling, especially since communication needs to be a two-way street.

Can you describe the traditional relationships and interactions that accreditation agencies have with higher education authorities in the States that they represent?

Ms. MANNING. Yes. Of course, we do not accredit in North Carolina. You are aware of that?

Senator HAGAN. But you do have students in North Carolina?

Ms. MANNING. Our institutions may have students in North Carolina. The communications that we have tried to build more strongly are with the higher education officers, the State higher education executive officers in our 19 States.

What we have done in the last 2 years is create a communication network, create the opportunity to meet at least twice a year to share problems, common problems, and therefore, in a sense, to create a communication pathway so that when we see problems or they see problems that we think should come to the attention of the other party, we have a good communication line set up and are able to do that.

Senator HAGAN. How is your accreditation agency funded?

Ms. MANNING. Our accreditation agency is funded primarily through member dues and fees.

Senator HAGAN. So the schools that you accredit actually pay you for their accreditation?

Ms. MANNING. Yes.

Senator HAGAN. Thank you.

Thank you Mr. Chairman.

The CHAIRMAN. I think, Senator Hagan, you just hit on another point that I had not brought up, but one that concerns us, is that accreditors are paid by the schools they are accrediting. That kind of doesn't sound right. So I am glad you brought that up.

Senator Blumenthal.

STATEMENT OF SENATOR BLUMENTHAL

Senator BLUMENTHAL. Thank you, Mr. Chairman.

And thank you for pursuing this topic and holding this hearing and giving us a chance to explore a subject that all of us believe is vital to the future of American education and the future of our

economy because these kinds of opportunities for students who otherwise wouldn't have access to college education is critically important.

And so are the scarce Federal dollars that enable these students to have access, and obviously, preserving and enhancing the use of those Federal dollars is one of the main reasons we are here today. And I think the chairman has pursued this topic very responsibly and vigorously, and I thank him on behalf of the people of Connecticut.

And I must say that a number of students in Connecticut have approached me with these kinds of complaints about misrepresented degree programs, the transferability or nontransferability of credits, the recruiting tactics that have been used with respect to them. And I recognize that they may be the exception, rather than the rule. That there may be just a few bad actors or bad apples, as the saying goes. But the extent of the harm and of the wrongdoing and abuse is the reason that we are here today.

And that leads to my first question, which is if you were to adopt metrics or criteria for knowing and measuring the results in a particular institution—for example, the number of dropouts, the numbers of defaults on loans, the numbers of failure to gain employment afterward—what combination of factors, Ms. Manning, would you use?

Ms. MANNING. I would use the combination that you mentioned, and those are things that we look at. The other thing that we place enormous emphasis on, though, is what a student learned.

In many of these institutions, the job placement is going to look fine because people already have jobs. That is, there are people in jobs who are taking these courses or these programs in order to improve their prospects, get a better job, get a promotion, or whatever. And so, once you get out of the traditional world of the 18- to 22-year-old, job placement becomes difficult in a sense because sometimes the numbers can be inflated rather than deflated.

We have put tremendous emphasis in the last 20 years on forcing institutions—and they have come a long way—to actually measure what the students learn, to create specific explicit student learning outcomes that are at college level to measure what the students do learn and then to act on what they discover about what the students aren't learning.

The other thing I would put, and we are putting, very high has to do with persistence and completion rates, what we have been talking about. They are a tremendous problem. We need to always understand them within the context of an institution. An institution that is focused on certain sectors—students, again, who come from inner-city schools, students who have various disadvantages—are not going to have the same persistence and completion rates as an elite school because they filter out all those students.

But we can, for any individual school, say this is what you have got, and it is or is not good enough. And frankly, it is never good enough to rest on your laurels, until it is 100 percent. And so, we can then work with institutions to say, "OK, this is where you are. When are you going to get the next step?" And that is what we intend to do.

Senator BLUMENTHAL. And how do you measure what students learn in a way that is reliable and standardized? In other words, one of the great challenges at every level of education is testing and the comparability of scores, and how do you look to measure the results if not by employment and repayment of debt?

Ms. MANNING. There is a lot that a school can do. Once you get beyond the basic skills, the things that you are looking at with freshman—basic math, basic writing, basic reading—you are looking at skills and learning that are simply not well measured by simple standardized tests. But if you have faculty who know what they are doing, and I believe our institutions do, there are other approaches to measuring what a student learns.

One of the most promising developments in the last few years has been something called the "electronic portfolio." And what happens is you collect the products of the student's work, and then you can, through the use of what are called rubrics, determine sort of rank, grade, what the students do as a whole. Not in one discrete course or another, but what the student has learned through the course of a history major or a chemistry major, you can see that. And faculty will see that, and they can normalize their scores.

Now does that give you something that compares well from one institution to another? No, it doesn't. But it does compare well to known standards in the profession. There is a lot of work going on in higher education now to normalize those standards, and what is really interesting is that when you bring people together in the disciplines from the different institutions, it turns out they have pretty similar standards.

Senator BLUMENTHAL. Well, let me ask you, you would agree that those metrics or measures relating to debt repayment and employment are not only relevant, but important?

Ms. MANNING. Yes.

Senator BLUMENTHAL. And assuming that you applied those to Ashford, how could you have accredited it?

Ms. MANNING. Well, you need to remember that the Ashford that you are talking about now has only been around for a couple of years. That is part of our problem.

What we had accredited was Franciscan University of the Prairies, which was a small school with about 400 students, declining enrollment, and, in fact, terrible persistence problems. They were having retention problems. What they needed was an infusion of cash to do things like spruce up their dorms and improve their quality so that they could hold and attract students.

Now what was wrong in our process and what we have changed is that once we accredited that, when it was acquired by Bridgepoint, suddenly, Bridgepoint was accredited, and it grew this enormous superstructure of this enormous online institution. And because we had pretty much not seen that kind of thing before, we didn't have the tools that we now have either to predict that or control that. And that is what we are doing.

Senator BLUMENTHAL. And what are those tools?

Ms. MANNING. Those tools now have to do with written policy that says that the institution must be able to demonstrate the intention and the capacity to be after the acquisition the same insti-

tution it was the last time we visited it before the acquisition. That is primarily the tools.

Senator BLUMENTHAL. But what do you measure to determine whether those representations are correct?

Ms. MANNING. Business plans, academic plans. If it is publicly traded, SEC filings.

Senator BLUMENTHAL. But what about results? What results?

Ms. MANNING. Oh, well, the results, of course, will come afterwards. What I am talking about is what we try to stop before it happens. That is to say what we do to try to prevent it, and the fact that we do that has paid off.

That is why, in 2010, we turned down two such acquisitions. And in one case, very sadly, Dana College in Nebraska, the institution went bankrupt. But we did it in another case, and the institution is still there. So those are preventive measures.

After the fact, the difference is now that when we approve that sort of transfer of ownership, the board—and these decisions are all made at the board of trustees level, not at the staff level. But the board has the ability to hang stipulations on the transfer or the continuation of accreditation to control that sort of transformation of the institution.

Senator BLUMENTHAL. Well, my time is up, and I really do apologize, Mr. Chairman.

The CHAIRMAN. That is OK. Go ahead, Senator. Go ahead.

I just wanted to point one thing out to my friend from Connecticut, though. Dr. Manning, it is true that HLC gave that accreditation to Ashford when they bought that small private college. But it is also a fact that in 2009, HLC did visit Ashford University with three peer reviewers, which I pointed out earlier two of whom were from for-profit universities. So HLC has, indeed, visited Ashford since 2005. Is that right, Dr. Manning?

Ms. MANNING. It hasn't done a comprehensive review. That is the problem. We did the last comprehensive review in 2006. And when I look at it now, it is very dated.

The CHAIRMAN. But what was 2009?

Ms. MANNING. 2009 was a focused, limited visit that we now require because they issued an IPO. We regard an IPO as a significant transfer moment, and so it was a very narrowly focused visit.

The CHAIRMAN. And your analysis gave it high praise.

Ms. MANNING. And our analysis gave it high praise.

The CHAIRMAN. Thank you.

Senator BLUMENTHAL. And I would just finish, Mr. Chairman, and I appreciate those very, very helpful questions.

You know, my impression, from having read and studied this area, is that there is a role for these institutions, for the for-profit, for the distance learning. I think that you are sensing a strong sense of disquiet, if not dissatisfaction, maybe even stronger emotion of skepticism, about whether the oversight and scrutiny here has been sufficient to eliminate the bad actors and the bad practices in this industry.

And I would just say that whatever the accreditation and scrutiny and oversight process is, I am not satisfied that it is sufficiently strong so far to provide credibility and trust on the part of policymakers and, equally important, the awarders of funds, Fed-

eral funds, taxpayer moneys that are very, very valuable in education these days.

Thank you.

The CHAIRMAN. Thank you. Thank you, Senator.

Senator Merkley.

STATEMENT OF SENATOR MERKLEY

Senator MERKLEY. Thank you very much, Mr. Chair.

Thank you all for your testimony.

It is my understanding, Ms. Manning, that you all did your major accreditation in 2006 shortly after it was purchased and became Ashford University. Is that correct?

Ms. MANNING. That is correct.

Senator MERKLEY. And then were reviewed again when there was an IPO in 2009, as you put it, a major transition?

Ms. MANNING. Right.

Senator MERKLEY. OK. So, in between that time period, if we look at what happened with this college on the amount of instructional funds spent per student, it went from $5,000 in 2004 to $700 in 2009. Did that trigger any concerns on behalf of the accreditation team?

Ms. MANNING. The larger concerns that you would come to were the concerns that we had about the growth. Now, on the one hand, of course, higher education is under tremendous pressure to become more cost-efficient. Because until higher education can become more cost-efficient, we are going to have this problem of cost that we have, where costs have become prohibitive for too many families and are costing too much, I believe, to the taxpayer in Federal funding that goes to assist those families.

And so, there is pressure to reduce costs. The problem, of course, is where the reduction of cost comes at the expense of quality. I believe what we are challenged now is to find the right path, to find out what is the right amount per student and to figure that out in a way where we could have a standard, where we would be able to say this amount is absolutely too little.

On the other hand, throughout higher education—and I don't mean here to be particularly defensive of the for-profits. I will tell you that I share deeply the concerns about marketing that Senator Harkin expressed. I think the marketing is a huge problem. I think the description that Senator Harkin gave was not merely inappropriate, it was appalling, and we have to get a handle on that.

But on the accreditation side and on the cost side, I think we have to find the space where we know that, yes, cost has been cut, and that is good. And then below that, cost cutting has gone too far.

Senator MERKLEY. OK. So you are talking about the cost to the student, that it is important to have efficiency, reduce the cost of education. Did you see a similar reduction from the $5,000 per year per student in 2004 to $700, did you see a similar reduction in the cost to the student over that time period?

Ms. MANNING. No.

Senator MERKLEY. I was thinking during that time period was a huge, huge increase in enrollment from less than 1,000 to 53,000 in 2009, 77,000. Wouldn't that kind of massive increase trigger

some sort of fundamental review because it has got to be a completely different institution when it has 50,000 to 70,000 than when it has 300 students? Wouldn't that trigger on your part some kind of serious examination of an institution?

Ms. MANNING. Unfortunately, it wouldn't have a couple of years ago. With the new procedures that have just been put in place in the past year, they will. We collect annual data from institutions, and we collect annual data on distance education. And so, we now have new standards, so to speak, where we measure the growth of distance education.

In other words, up until now, when we looked at distance education, we looked to see if the institution had the capacity to offer it. Because in distance education, there are a number of things you have to do differently than what you do on the ground, and the services have to be provided in a very different manner.

And so, we wanted to be sure that the institutions were capable of doing that. We didn't take a growth factor in there. Now we do. We actually have sort of mezzanines or levels which institutions reach, which automatically will trigger a new review.

We also have put in place a process that allows us to trigger sheer growth and, by the way, sheer decline in enrollment, too, which is in a very different world, but it happens.

Senator MERKLEY. Do you have similar triggers for changes in the number of students who are withdrawn, if you will?

Ms. MANNING. No. That is part of—that tight following of persistence rates is something that is coming in with the new criteria.

Senator MERKLEY. OK. So it is something you expect to do. If an institution goes from, say, 20 percent withdrawn to 80 percent, that would trigger a major review?

Ms. MANNING. So would 20 to 25.

Senator MERKLEY. OK. But it didn't.

Ms. MANNING. It didn't at the time.

Senator MERKLEY. At the time. OK. When you, in 2006, accredited the institution, did you do programmatic accreditation?

Ms. MANNING. No. We do not do programmatic accreditation. We rely on the specialized and professional accreditors to do that so that——

Senator MERKLEY. Let's say a college has 20 programs, and 2 of them are of a real-high quality and they are doing their job, but 18 are not. You wouldn't necessarily pick up that sort of distinction that there are 18 programs that are basically not doing their job fairly by the student?

Ms. MANNING. Right. We would not certainly pick it up, for example, in the liberal arts fields. Although if 18 are poor and 2 are good, it would be more likely that the whole thing would look poor. And so, we would see them as poor, as opposed—do you know what I mean? But if they were 18 good and 2 poor, we wouldn't.

But in the specialized fields, particularly in fields where there is professional accreditation, where there is licensure, again, we would rely on those specialized accreditors. And just, I keep saying this, I know. But in the new standards that have just come out, one of the things that we are requiring is that if an institution offers programs in fields where there is licensure and where specialized accreditation is required, that students be informed if they

have or have not got the specialized accreditation. And if they don't have it, students need to be informed as to what the consequences of that will be. And we are going to monitor that very tightly.

Senator MERKLEY. So that would really address a situation we had presented to us previously where a young woman was enrolled in an ultrasound program. And after she couldn't get a job after an extended period of time, someone finally pulled her aside and said, "You realize that the program you went to wasn't accredited, and no one will ever hire you, or anyone from that program."

And she was just absolutely shocked because she had spent her money. She had spent her time. She was a single mother. She was trying to survive after a divorce. So that would not happen in the process you are describing now?

Ms. MANNING. Yes. It is exactly those stories that moved us to create those requirements.

Senator MERKLEY. Oregon encourages schools to obtain programmatic accreditation, essentially approval of their program by the appropriate State licensing board. I don't know if you have ever looked at the Oregon model, but it is designed to make sure that students don't get caught in that kind of a trap. So there is not a big loophole, if you will, in the accreditation system. Have you ever looked at the Oregon system?

Ms. MANNING. Oregon, I think, may have the best State oversight system in the country. You have a superb State higher education officer. Oregon is not in our district, but we are aware of that. And that kind of strict State oversight is something we are very happy to see, we hope, in every State in the union.

Senator MERKLEY. Well, thank you. With that compliment, maybe I should just stop?

[Laughter.]

But I just do want to point out to the chair that that issue of programmatic accreditation may be a piece of the puzzle to make sure students paying tuition and taking out student loans are availing themselves of an opportunity that merits their money and their time.

Would anybody else like to comment on the programmatic accreditation issue?

Ms. WILLEMS. As far as teacher preparation in Iowa, one of our requirements is that the institution is regionally accredited. And when we did the review of Ashford, we found out that they were accredited, but we knew that there was such a huge change coming.

So we contacted the Higher Learning Commission, and I spoke with an individual who said they were going to be reviewing. We were doing 2005–6, and I think the HLC review was going to follow ours. But at the time, they expressed some concerns about what was happening in Ashford.

Senator MERKLEY. Because a great number of the students in the teacher preparation program will be unable to be certified to teach in their State.

Ms. WILLEMS. Right.

Senator MERKLEY. And they don't really know that when they are investing their time and energy, and cramming for their exams.

Ms. WILLEMS. Many of them don't. Our experience in the calls that we have received, we have no clue what percentage of the students were misinformed.

Senator MERKLEY. Yes, yes.

Ms. WILLEMS. But we do know that there were great numbers.

Senator MERKLEY. We have about 600 Oregonians who are part of the online program for Ashford. And so, I don't think they are covered by the programmatic accreditation standards that our State has. I am wondering if you all have brainstormed over that type of issue?

Ms. WILLEMS. Well, that is an issue because once Ashford lost its Iowa approval, that program was no longer in our jurisdiction. And so, actually, it is in nobody's jurisdiction. The people in Oregon who are taking that online program, there is really no oversight.

Technically, if they complete the Ashford program, they cannot get a license. They have to complete the Rio Salado program and get an Arizona license. But most—a lot of the people don't understand that. It has not been explained to them. And it is very confusing for them, and that is the problem.

But basically, what happened is we have lost any jurisdiction. There is no jurisdiction for your people in Oregon.

Senator MERKLEY. Has the concept been brainstormed as to whether in an unaccredited program, the students should be able to access Pell grants?

Ms. WILLEMS. That is not something that we get into. We really look at the quality of the teacher preparation programs. And so, the people who, in Iowa, who would look at that are the people at the College Student Aid Commission. And we have had discussions with them. They are very much aware of the issues and the concerns.

Senator MERKLEY. Wouldn't that kind of solve this overnight? Because every institution would be like, "OK, we have got to get programmatic accreditation."

Ms. WILLEMS. It would. Part of the problem, quite honestly, is—and this is a common growing problem. It is lack of personnel because, for instance, we have a rule in Iowa that requires that these institutions, if they have programs, those programs must be approved by the State of Iowa in order for them to be accepted.

The problem is that there are not personnel to do that, and there are not personnel probably at the Iowa College Student Aid Commission to address all of that. And so, the oversight is not one—sometimes it is not even one of rule. Certainly, it is not one of intention. But oftentimes, it is a matter of lack of people.

And so, the work has to be prioritized, and at this point in time, that has not been a priority.

Senator MERKLEY. Well, I want to thank you all very much for coming before the committee to help us understand these issues better because it is certainly important that students have a clear understanding of what they are buying. They are putting their money on the line. We are putting Federal money on the line with grants and loans.

Student loans are not inextinguishable by bankruptcy. So they travel with folks through their life. And of course, our collective goal is to equip people to have a better future, and we need to

make sure that is happening when we are putting the resources in. Thank you very much.

Thank you, Mr. Chair.

The CHAIRMAN. Thank you, Senator Merkley. Thank you very much. Very pertinent questions and very pertinent, incisive questions on this.

We have had so many complaints. I had a whole stack of them here, several hundred from this one university. And a lot of them have to do with—they were basically told that they could take a course and they would be qualified to do something, and then only later to find out that they weren't.

Just one here was a student who signed up to be a dental assistant. He took classes for 1 year, and he became suspicious because none of them had anything to do with being a dental assistant. He inquired about it with his academic adviser, told him that Ashford would not lead to a dental assistant license, and she didn't really have anything to say. He was distraught.

He said, "I felt I was completely, utterly lied to." He left with $9,0000 in loans and $3,000 owed to the school.

Again, it seems to me that I think the Senator is onto something. If, in fact, they are going to hold themselves out that you can take this course and it leads to a job or a degree in something that you would be qualified to do in your State, that they have to show that before they can get Pell grants or student loans.

It has to be something like I think a program approval, something along that line is something we ought to look at. I thank the Senator for bringing that up.

And I just might state that—I have some more questions. But I might just state before the Senator leaves that all the hearings and investigations we have had for that last year, they are not just going to simply lead to nothing. This is crying out for something that we have to do legislatively and regulatory, and I will be discussing it with members of the committee and the Senator as we move ahead on that.

Thank you, Senator.

And I think when we get into the accreditation, and maybe if, Senator Merkley, just for this one little thing, if I could just ask your indulgence to stay? We think of accreditation agencies as accrediting colleges and universities that are basically campus based. That is how they grew up 100 years ago. That has been the evolution of accrediting agencies.

With this whole new thing of these for-profit schools that have just burgeoned in the last 10 years and the amount of money they are making—as I said, what was it? How many billion dollars now, Federal money? Twenty-six billion dollars, Pell grants. That really, these are really multi-State corporations. That is really what they are. They are multi-State corporations.

Their main focus is the bottom line, how much profit they make. And the question that I would say is for any accreditor, not just HLC, but for any accrediting agency, are they really equipped to oversee the quality of a billion-dollar, multi-State corporation?

I don't think so. And that is what you are dealing with. You are not dealing with a school. You are dealing with a multi-State, billion-dollar corporation whose bottom line is making more profit for

their investors. And so, I don't think the accreditation agencies have the wherewithal to do that.

I don't know, Ms. Manning, if you wanted to respond to that? I just think this is a whole different horse of a different color, and we either have to change the accrediting agencies, and what they do and how they do it, or set up some new kind of a regulatory framework to deal with these multi-State corporations. Because they come under the radar screen of education, but that is not their primary business.

When we talk about dropout rates and things, I understand that a lot of schools have dropout rates. I understand that. But their bottom line is not making a profit. It is education. You know, University of Oregon or your private schools are out there, Lewis and Clark and all the great schools you have out there, their bottom line is not making a profit. It is educating kids.

So I just throw that out. I don't know, Dr. Manning, if you had any response to that or not?

Ms. MANNING. I would just like to take up the distinction you made between a multi-State, billion-dollar corporation and a school and to urge you, as you seek solutions, perhaps to think about distinguishing so that insofar as this is a multi-State, billion-dollar corporation, you may well need to have a different regulatory scheme at the Federal level.

The CHAIRMAN. Maybe.

Ms. MANNING. Insofar as it is a school, when you are talking about the quality of the education the students receive, the actual learning that takes place, I would urge you still to leave that to us.

The CHAIRMAN. Well, I have my questions——

Ms. MANNING. I know.

The CHAIRMAN [continuing]. About that, as I pointed out earlier. The Federal Government, as far as I know, has never really gotten into the accreditation. This is something that is private. They are nonprofit. You are out there.

But to the extent that accreditation provides for accessibility to Pell grants and to guaranteed student loans, yes, now we have an interest in how accrediting agencies are structured and what they look at and how they provide this accreditation.

So it may not just be a separate regulatory agency. It may be something that we need to say that if you are going to be an accrediting agency, you have to do these things, if you are going to be held out as an accrediting agency based upon which school has access to Federal student loans and grants. So I don't know.

Ms. MANNING. And the structure to do that is built into the requirement for recognition by the Department of Education.

The CHAIRMAN. Well, obviously, it is not happening. It is just not happening. We know that from all the documents and everything. It is just not happening. So something has got to change.

And again, I would say this not as any kind of a poke at the accrediting agencies. I think there is a role for accrediting agencies, but this whole new regime out there has thrown a monkey wrench into it.

But it just seems to me to say that all we are going to do is rely upon the accrediting agencies to give us sort of the perimeter of the stamp of approval when the accrediting agencies are basically part

and parcel of the higher education system, it has some of the echoes of the last 10 years and where we relied upon bond rating agencies to tell us that these subprime mortgages were just fine. And they said they were, and we found out, no, they weren't.

Yes, Senator.

Senator MERKLEY. Mr. Chair, I am thinking about several for-profit schools that I have visited that had done tremendous work in terms of innovation, utilizing building online textbooks that could be continuously upgraded and were very inexpensive, class scheduling designed to be very flexible for mothers and fathers and others getting after-work degrees and so forth. So I think that there is a powerful force for good in the for-profit education system.

I think that those institutions that are truly in the education world to educate can help us figure out how we can design a system so that students will benefit from their experience in these programs while sorting out situations that have been set up primarily to fleece the Federal Government. And so, we have got to find a way to seize and promote the potential while sorting out the abuse.

The CHAIRMAN. I appreciate that, and I have seen some for-profits that have done a great job. But I think Mr. Cruz's point is well taken. It is a structural problem.

When you have a business model that is set up so that you make the most profit by getting the lowest-income students, you have a problem right away.

And then what is happening with the growth of these, the growth of the University of Phoenix and Bridgepoint and all the others, and the huge dropout rates, the amount of debt they are piling up, 10 percent of the students going to online for-profit schools, but they are taking up 25 percent of the Government money. And they are contributing—they have 10 percent of the students, and they are getting about 50 percent of the defaults just in that segment.

I just think that there is a vortex that people are being sucked into here. And what you also see is some of the larger for-profits sucking up the smaller ones. They are buying them up. They probably pay pretty good money for them, and they suck those up.

I think many well-meaning for-profit schools, in order to stay in the game, are looking at Bridgepoint and others and saying, "We have got to do that, too. If we are going to be in this, we have got to get in this game, too." Or they are going to get pushed out by some of these larger ones.

Now that, to me, is also a concern. How we have a decent for-profit system, I think, can be done. I have seen it happen. But I am afraid the business model and the structure that is set up now is not going to permit that to happen without some regulation from here, and maybe some new legislation and new regulation that might help do this. But that is for discussions later on.

I had some follow-up questions I wanted to ask, and it had to do with something that was said about we have low-income students and minority students, and they do worse than their peers. That happens everywhere.

I am just wondering if the implication is that we should have lower expectations for for-profit schools because they have more low-income and minority students? Mr. Cruz, did you hear that?

Mr. CRUZ. I heard that.

The CHAIRMAN. What did you think about that?

Mr. CRUZ. Well, I think that low expectations are a problem, and the fact of the matter is that what institutions do matters. So, for example, when Ms. Manning commented on the situation regarding remedial coursework, that is one example of what institutions can do to provide their students with the tools they need to be able to be successful.

So when you see for-profit college companies talk about their students, the students that they work so hard to recruit in the first place, and then say that the reason that they are not successful is because of the demography, then that tells you that really there is not a commitment to provide them the tools that they need to succeed.

They know the background of those students. They know what those students need to succeed. And if they don't, there is plenty of literature that shows——

The CHAIRMAN. So you are saying they know the students they are recruiting. They know what they need to be successful, but they are not providing that support.

Mr. CRUZ. And we have seen that they have sufficient revenue to invest in student success vehicles.

The CHAIRMAN. In other words, yes, they have the sufficient revenue, but it is going to profits.

Mr. CRUZ. Right.

The CHAIRMAN. If they took that and put that into support services, you might have a higher success rate.

Mr. CRUZ. That is right.

The CHAIRMAN. Ms. Willems, I see you nodding your head.

Mr. CRUZ. The only other thing I would say, if I may, is that we have identified many institutions throughout the United States that have student bodies that are similar to those in the for-profit college sector but that do graduate their students at a higher rate and leave those students with a much lower debt burden. So demography is definitely not destiny.

The CHAIRMAN. Ms. Willems, did you have any thoughts on that? I saw you nodding your head.

Ms. WILLEMS. Definitely. I mean, the fact that the support is not there and that they are intentionally recruiting students. They know their capabilities to a point. And I agree with Dr. Manning that, definitely, there should be something more in place.

I mean, at a traditional school, you don't enter a college, you are not accepted unless you meet certain criteria. And I think that is an issue.

I think, if I could?

The CHAIRMAN. Sure.

Ms. WILLEMS. Two things. One is this whole issue of online. I think we have to be very careful to separate the idea of online education with for-profit because there is growing online education coming from non-for-profits. Probably it is not growing fast enough, and that is why the for-profits can get into this market.

And if I may, just to play an Iowan for just a minute? Your comment about the horse of a different color, my concern is that that horse is already out of the barn. And by the time that we have developed some kind of oversight, when we look at the way that Ashford grew. Now, certainly, if we can develop an appropriate oversight, we could close a university, just like we could close a program with proper oversight.

But it is more difficult once that university is in place and is so large and is so ingrained in an economic system and situation. So my concern is for the timeframe.

The CHAIRMAN. It is what?

Ms. WILLEMS. Timeframe, of being able to develop an accountability system for them.

The CHAIRMAN. Do you think it is too late?

Ms. WILLEMS. No. I mean, we have to do it. We have to do it. It is just that these corporations are much more nimble, and they can grow so much more quickly than any kind of Government entity or any kind of oversight entity. Those are just the facts of life.

So I don't think it is—I mean, we have to continue the work. I think we just have to keep in mind that this has grown so quickly, and we just have not kept up. And so, perhaps that means that the efforts need to be a little bit more intentional or a little bit more fast-paced than we usually do things.

The CHAIRMAN. Well, you know, we are trying. The Secretary of Education promulgated a proposed gainful employment rule. The comment period was open. I think it is closed now, isn't it? The comment period is closed now.

And I am sure it comes as no shock to you that the lobbying effort in this city to water down that gainful employment rule is one of the most intense I have seen in my 30-some years here, which tells me there is a lot of money at stake. And they are doing, I will tell you, the lobbying is just incredibly intense on that.

This committee would like to know how much money these for-profit schools are spending. Now we do know that about 30 percent of Federal money is being used for recruiting. I wonder how much of the taxpayers' dollars are being used for lobbying?

Ms. WILLEMS. Well, I can tell you that in the State of Iowa, there is a lot of lobbying being done in the statehouse by lobbyists for these folks. I know the lobbyists. I have met with the lobbyist from Ashford. They are currently no longer their lobbyist. They have hired different lobbyists since then. But it is very—it is intense.

The CHAIRMAN. Do you mind me raising a point? It wasn't in your testimony, but it is my understanding that Bridgepoint offered you a job?

Ms. WILLEMS. Yes, yes.

The CHAIRMAN. They did?

Ms. WILLEMS. They did. I had lunch with the chancellor and the chair after the morning meeting when we closed them officially. And it was interesting. I wondered myself what that was all about. And if she was serious, which, you know, is debatable, I think that probably they thought maybe I could be of assistance, especially if they decided to rebuild their program and seek Iowa approval.

They made good market decisions as a business entity. Now some of the decisions they made in the program level were not wise

decisions, and some of the hiring decisions were not wise. But as a business, they certainly know what they are doing.

The CHAIRMAN. Well, that is what it is. It is a business.

There is one other thing I want to cover before we bring this to a close. And there is just one more issue that I want to bring out in this hearing. And this has to do with how fast default rates are going up, 25 percent in the last year alone.

And what is happening there with the internal documents that we have from the company shows that the company is managing the default rate by paying a subsidiary of Sallie Mae, called GRC, more than $1 million a year, $1.3 million a year. Bridgepoint turned over the names and contact information for 37,000 students that could potentially default and, therefore, add to the company's default rate that they report to the Department of Education.

Now why is that important? Well, because under Federal law, any institution that has a—is it 2 years or 3? Yes, 2 out of 3 years, if they have a default rate of over 30 percent, they will be ineligible for Government programs.

So if you are a school and you see your default rate going up and maybe getting near that 30 percent, what do you do? You don't want to be kicked out of the program. So you manage it.

This chart, which I can hardly see myself here, this chart shows that most of the students that GRC has cured are actually in forbearance. Oh, here. Thank you. I can look at it now. What it shows is that they are either in forbearance or deferment.

In 2009, it was 82.9 percent in 1 year, and then on 2010, 84.7 percent. So they are either in forbearance or deferment.

So what happens when deferment or forbearance runs out? What happens? Mr. Cruz, are you aware of what forbearance and deferment means?

Mr. CRUZ. Yes, sir.

The CHAIRMAN. What does it mean when you are in forbearance?

Mr. CRUZ. Well, when you are in forbearance, you are allowed to stop making payments to your student loans for some life condition. The problem with forbearance is that interest keeps accumulating.

The CHAIRMAN. So you don't have to make payments, but the interest accumulates?

Mr. CRUZ. Right.

The CHAIRMAN. And how long can you be in forbearance?

Mr. CRUZ. I believe it is for a year.

The CHAIRMAN. For a year? For 1 year?

Mr. CRUZ. I believe so.

The CHAIRMAN. OK. Tell me about deferment then.

Mr. CRUZ. In deferment, you can also stop making payments. But in that case, I believe that interest does not accrue, and that is for cases where, for example, the student goes back to school and can then reinstate that deferment.

The CHAIRMAN. And I am told that deferment can be for up to 3 years.

Mr. CRUZ. For 3 years.

The CHAIRMAN. So if you were approaching, if a school were approaching a 30 percent default rate over that 2 out of 3 years and they hired this company, GRC, a subsidiary of Sallie Mae, and gave

them all these students' names that were potentially going to be in default. And GRC called them up and said, "Look, are you having trouble making your payments?" Yes. "Well, there is something called forbearance that you can go into, or we can put you in deferment."

And guess what, you don't have to make any payments, and you can be in deferment for up to 3 years. And you can go back to school when you are in deferment, and then you can come back out of school. Then you can go back into school and come back out. But you can be in deferment, if I am not mistaken. And therefore, it does not add up to that 30 percent.

So what happens, it is a scheme. What a school can do, obviously, has a snowball effect. But they keep pushing the snowball into the fourth year. As long as it is in the fourth year, they are never over that 30 percent default rate. Does this comport with anything that you have known, Mr. Cruz?

Mr. CRUZ. Well, I have known that institutions try to manage their default rates. The way that you have presented Bridgepoint doing it in this case would worry me from the standpoint of whether or not the students are getting the best financial advice for them, right, because once the window of responsibility for Bridgepoint closes, the student still has that financial obligation.

The CHAIRMAN. That is right.

Mr. CRUZ. The other thing that sort of pops out at me is this notion of the student as a cost unit. First, we provide bounties to recruit them. Then we provide bounties to third parties. We outsource the management of the default rates. And at no point there seems to be that same sort of investment or focus on the student success to begin with.

The CHAIRMAN. In fact, our figures show that with Bridgepoint alone, just on this managing of the default and what they are paying GRC and the number of students, comes down to about $495 a student, if I am not mistaken. Yes, $495.

So, recruiting, they spend $2,714 per student. For instruction, as we saw earlier, $700 per student. They make—again, I can't see that chart over there. How much for profit is—$1,500 for profit, and then $495 for delinquent cure, as it is called.

So that is $495 they are putting into that. But they are putting $2,714 to recruiting. Does that kind of, again, tell you something?

Mr. CRUZ. Well, I guess that is the cost of doing business in order to get access to the Federal revenue sources.

The CHAIRMAN. Anybody else have any thoughts on this?

Ms. MANNING. I just want to comment that there are loopholes in this whole default rate that shouldn't be. And the consequence of the loopholes is that the institutions get away with it because the students after 3 years fall out of the picture. They are never counted.

The CHAIRMAN. Gone.

Ms. MANNING. And yet the penalty for the student for default, as you, yourself, alluded to, is a lifetime penalty. I think that needs to be fixed, and I hope that you will find a way to fix that.

The CHAIRMAN. Well, that is what this is all leading to. We have got to try to find some way to fix it, and you said it is a lifetime. It is around their neck in terms of their debt.

I have often said at least in the subprime, you can walk away from a house. You can walk away from a car loan. You can give them your car back. But you can't walk away from this one.

The other disturbing thing that we have brought up in past hearings is what is happening now with the military. And Bridgepoint, I didn't talk about that, but we have a lot of their documentation about how they are aggressively now going after the military. Again, for one reason, which the CEO of Bridgepoint quite openly said, it keeps them below their 90 percent threshold because the military money doesn't count for the 90 percent.

Well, while that may not be a debt on those service people, you only get it one time. The benefits that we give for military active duty and post military active duty, GI bill, is one time. If they use that money and go to one of these online schools like Bridgepoint and they don't get a good education, they don't get anything for it. They can't get it again. It is gone. It is one time.

Bridgepoint, I will just say, has in the last year and a half, seen an enormous increase in the number of military students. Bridgepoint CEO Andrew Clark made clear at an investor conference in early 2010 that the school was going aggressively after military students.

He said, "We believe that when we are able to report our 90/10 for 2009, that it should decrease due to our penetration in particular into the military market." He went on to rave that Ashford has been recognized by GI Times as "military friendly." Again, this might come as a surprise to a number of the military students filing complaints.

But Mr. Clark was clearly correct in his assessment. The school doubled its enrollment of military undergraduate students from 4,438 to nearly 9,000 in the course of 9 months. In 2010, Bridgepoint collected $60 million in military benefits, $60 million. 2009, it was $4 million. So they are going after the military, too.

So we have a very deep problem here, and I know that some are trying to perhaps take our eye off the ball by claiming that GAO did something here and nothing there and all this kind of talk. Fine. As I said, GAO stands by its findings, and we have the tapes and everything. So we can't take our eye off of what the problem is here.

I would like to thank each of our witnesses for being with us today. We will leave the record open for 10 days. The witnesses may submit statements for the record or supplemental statements.

I would ask unanimous consent to include a statement by Senator Durbin in the record.

[The prepared statement of Senator Durbin follows:]

STATEMENT OF SENATOR DURBIN

I would like to thank Senator Harkin for holding this hearing. The Chairman has held a series of hearings on for-profit colleges, and I commend him for his continued commitment to tackling this important issue. The Chairman and I share many concerns about practices in the for-profit higher education sector, as well as a lack of proper oversight of these institutions. I commend this committee for its continued work in the area proprietary schools.

As I have said before, there are many good for-profit colleges that provide a valuable education to students. There is much that traditional colleges could learn from the flexibility and innovations of for-profit colleges, but we know that some for-profit colleges are failing students.

We know that 25 percent of for-profit college students will default on their Federal loans within 3 years of leaving school. We know that for-profit colleges account for nearly half of all total defaults on student loans. I have spoken with these students—young people whose lives may be ruined by student loan debt they will never pay off.

There are bad actors in this industry, despite the claims of every lobbyist that their client is one of the good ones. Today, Chairman Harkin is profiling Bridgepoint Education. He will highlight practices taking place at this school that should make everyone question the investment of Federal dollars there, as well as the efficacy of the current regulatory system.

Bridgepoint Education was founded in 1999. It purchased a small school in Iowa in 2005 and changed its name to Ashford University. The small campus quickly became a large online operation, still carrying the original school's valuable regional accreditation with the Higher Learning Commission. Enrollment jumped from 332 students in 2005 to over 77,000 in 2010.

Profits have also skyrocketed. In 2010, Bridgepoint earned $216 million in profits while taking in over 85 percent of revenues from Federal taxpayers. Very little of that money is being invested in student success. Bridgepoint only spends 40 percent of revenues on instruction, faculty, and student services. The rest goes to profits and marketing. Only one career counselor is on hand to assist students with career placement: one counselor for 77,000 students.

Congress needs to take a serious look at whether Federal financial aid dollars that are meant to provide students a chance at a higher education should be spent on billboards, television commercials, advertisements on the sides of buses, heavy-handed recruiting, and lining the pockets of investors.

Colleges that focus more on shareholders than students do not produce good outcomes. Ashford University, owned by Bridgepoint, has a 3-year student loan default rate of nearly 20 percent. When the promises made to students are not fulfilled, they find themselves left with tens of thousands of dollars in student loan debt and a worthless degree. If that student defaults on that loan, the taxpayers are left holding the bag.

Despite all the evident problems at Bridgepoint, Ashford University retains its regional accreditation, awarded before the school was purchased and transformed.

Accreditation agencies serve as the gateway to Federal funding. The Federal Government, taxpayers, and students depend on their judgment and deserve assurances that accreditors are weeding out low performing institutions. Looking at the current state of higher education, it is reasonable to question whether accreditation agencies have been living up to their responsibility. Examples such as the one highlighted today raise serious questions about the rigor of the accreditation process.

As Congress works to reduce the Federal deficit, we are appropriately scrutinizing Federal spending. We must do more to provide assurance to taxpayers about the value of their investment in higher education. Accrediting agencies also must provide assurance to taxpayers and students that Federal financial aid funding is only going to institutions of quality and rigor that produce good outcomes for students. Students deserve more than what some of these colleges are currently providing

Again, I thank the Chairman for holding this hearing and I look forward to continuing to work with him to address this important issue.

The CHAIRMAN. I believe that today's case study of Bridgepoint has revealed compelling evidence about how this one company has put profits over students. Students and taxpayers rely on the States, accreditors, and the Federal Government to ensure that the college or university, online or campus-based, that they are providing a quality education.

And I don't believe these institutions, all of them—I am not just singling out the accreditors. I don't think the Federal Government has done its job. I don't think the State governments have done their job either, when it comes to Bridgepoint especially and others that are in the same mold.

There are very serious gaps in our rules and regulations. These institutions that get most of their money, 85 to 90 percent of their money, from the taxpayers of this country and use as a recruiting model to go after the most vulnerable, lowest-income people in our country.

As Mr. Cruz correctly stated, the problem is structural. It is not just one or two bad actors. Does that mean that everybody is bad? No, that is not what I am saying. I am just saying the structure is such that even if you are a good actor, you are pretty soon probably going to be a bad actor if you are still trying to meet the bottom line.

So it is a structural problem, and it is something that if we don't—what did you say, Ms. Willems—close the barn door? If we don't close that barn door pretty soon, it is just going to get worse and worse and worse. And you are going to have a whole generation almost of people in this country who have tremendous debts, tremendous debts, and haven't gotten an adequate education.

They have been held out, this is the dream, the American dream. Get a good education. And they are up to their eyeballs in debt, and they will never get out of it. And yet a number of people will walk away with millions, hundreds of millions of dollars in profit.

I don't even like to use the word "profit." It is not a profit. When you are taking that much money from the taxpayers, that is not a profit. That is not a profit. That is something else. And so, they are walking away with all of this taxpayer money in their pockets, mega millions of dollars. They are set for life. They are set for life. Mr. Clark is set for life.

How many millions is he worth? Twenty million. Now they went public. I don't know how much stock he has. He is probably worth, I don't know, hundreds of millions of dollars, just in 5 years.

But what about some of these students who signed up and went into debt? What about them? What about their lives? Well, they are

counting on us. They are counting on us to protect them and to make sure that we have a structure in which they can rely upon the assurances that they were given by whatever college they go to that they are going to get a quality education.

With that, the HELP Committee is adjourned.

[Additional material follows.]

ADDITIONAL MATERIAL

PREPARED STATEMENT OF GREGORY D. KUTZ, MANAGING DIRECTOR FORENSICS AUDITS AND SPECIAL INVESTIGATIONS*

HIGHLIGHTS

WHY GAO DID THIS STUDY

Enrollment in for-profit colleges has grown from about 365,000 students to almost 1.8 million in the last several years. These colleges offer degrees and certifications in programs ranging from business administration to cosmetology. In 2009, students at for-profit colleges received more than $4 billion in Pell Grants and more than $20 billion in Federal loans provided by the Department of Education (Education). GAO was asked to (1) conduct undercover testing to determine if for-profit colleges representatives engaged in fraudulent, deceptive, or otherwise questionable marketing practices, and (2) compare the tuitions of the for-profit colleges tested with those of other colleges in the same geographic region.

To conduct this investigation, GAO investigators posing as prospective students applied for admissions at 15 for-profit colleges in six States and Washington, DC. The colleges were selected based on several factors, including those that the Department of Education reported received 89 percent or more of their revenue from Federal student aid. GAO also entered information on four fictitious prospective students into education search. Web sites to determine what type of follow-up contact resulted from an inquiry. GAO compared tuition for the 15 for-profit colleges tested with tuition for the same programs at other colleges located in the same geographic areas. Results of the undercover tests and tuition comparisons cannot be projected to all for-profit colleges.

FOR-PROFIT COLLEGES—UNDERCOVER TESTING FINDS COLLEGES ENCOURAGED FRAUD AND ENGAGED IN DECEPTIVE AND QUESTIONABLE MARKETING PRACTICES

What GAO Found

Undercover tests at 15 for-profit colleges found that 4 colleges encouraged fraudulent practices and that all 15 made deceptive or otherwise questionable statements to GAO's undercover applicants. Four undercover applicants were encouraged by college personnel to falsify their financial aid forms to qualify for Federal aid—for example, one admissions representative told an applicant to fraudulently remove $250,000 in savings. Other college representatives exaggerated undercover applicants' potential salary after graduation and failed to provide clear information about the college's program duration, costs, or graduation rate despite Federal regulations requiring them to do so. For example, staff commonly told GAO's applicants they would attend classes for 12 months a year, but stated the annual cost of attendance for 9 months of classes, misleading applicants about the total cost of tuition. Admissions staff used other deceptive practices, such as pressuring applicants to sign a contract for enrollment before allowing them to speak to a financial advisor about program cost and financing options. However, in some instances, undercover applicants were provided accurate and helpful information by college personnel, such as not to borrow more money than necessary.

Fraudulent, Deceptive, and Otherwise Questionable Practices	
Degree/certificate, location	Sales and Marketing Practice
Certificate Program—California	Undercover applicant was encouraged by a college representative to change Federal aid forms to falsely increase the number of dependents in the household in order to qualify for grants.
Associate's Degree—Florida	Undercover applicant was falsely told that the college was accredited by the same organization that accredits Harvard and the University of Florida.

*On November 30, 2010. GAO reissued this testimony to clarify and add more precise wording to the original testimony.

Fraudulent, Deceptive, and Otherwise Questionable Practices	
Degree/certificate, location	Sales and Marketing Practice
Certificate Program—Washington, DC	Admissions representative said that barbers can earn up to $150,000 to $250,000 a year, an exceptional figure for the industry. The Bureau of Labor Statistics reports that 90 percent of barbers make less than $43,000 a year.
Certificate Program—Florida	Admission representative told an undercover applicant that student loans were not like a car payment and that no one would ''come after'' the applicant if she did not pay back her loans.

Source: GAO

In addition, GAO's four fictitious prospective students received numerous, repetitive calls from for-profit colleges attempting to recruit the students when they registered with Web sites designed to link for-profit colleges with prospective students. Once registered, GAO's prospective students began receiving calls within 5 minutes. One fictitious prospective student received more than 180 phone calls in a month. Calls were received at all hours of the day, as late as 11 p.m. To see video clips of undercover applications and to hear voicemail messages from for-profit college recruiters, see *http://www.gao.gov/products/GAO-10-948T*.

Programs at the for-profit colleges GAO tested cost substantially more for associate's degrees and certificates than comparable degrees and certificates at public colleges nearby. A student interested in a massage therapy certificate costing $14,000 at a for-profit college was told that the program was a good value. However the same certificate from a local community college cost $520. Costs at private nonprofit colleges were more comparable when similar degrees were offered.

Mr. Chairman and members of the committee, thank you for the opportunity to discuss our investigation into fraudulent, deceptive, or otherwise questionable sales and marketing practices in the for-profit college industry.[1] Across the Nation, about 2,000 for-profit colleges eligible to receive Federal student aid offer certifications and degrees in subjects such as business administration, medical billing, psychology, and cosmetology. Enrollment in such colleges has grown far faster than traditional higher-education institutions. The for-profit colleges range from small, privately owned colleges to colleges owned and operated by publicly traded corporations. Fourteen such corporations, worth more than $26 billion as of July 2010,[2] have a total enrollment of 1.4 million students. With 443,000 students, one for-profit college is one of the largest higher-education systems in the country—enrolling only 20,000 students fewer than the State University of New York.

The Department of Education's Office of Federal Student Aid manages and administers billions of dollars in student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended. These programs include, among others, the William D. Ford Federal Direct Loan Program (Direct Loans), the Federal Pell Grant Program, and campus-based aid programs.[3] Grants do not have to be repaid by students, while loans must be repaid whether or not a student completes a degree program. Students may be eligible for "subsidized" loans or "unsubsidized" loans. For unsubsidized loans, interest begins to accrue on the loan as soon as the loan is taken out by the student (i.e. while attending classes).

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[1] For-profit colleges are institutions of post-secondary education that are privately owned or owned by a publicly traded company and whose net earnings can benefit a shareholder or individual. In this report, we use the term "college" to refer to all of those institutions of post-secondary education that are eligible for funds under Title IV of the Higher Education Act of 1965, as amended. This term thus includes public and private nonprofit institutions, proprietary or for-profit institutions, and post-secondary vocational institutions.

[2] $26 billion is the aggregate market capitalization of the 14 publicly traded corporations on July 14, 2010. In addition, there is a 15th company that operates for-profit colleges; however, the parent company is involved in other industries; therefore, we are unable to separate its market capitalization for only the for-profit college line of business, and its value is not included in this calculation.

[3] The Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work-Study (FWS), and Federal Perkins Loan programs are called campus-based programs and are administered directly by the financial aid office at each participating college. As of July 1, 2010 new Federal student loans that are not part of the campus-based programs will come directly from the Department of Education under the Direct Loan program.

For subsidized loans, interest does not accrue while a student is in college. Colleges received $105 billion in title IV funding for the 2008–9 school year—of which approximately 23 percent or $24 billion went to for-profit colleges. Because of the billions of dollars in Federal grants and loans utilized by students attending for-profit colleges, you asked us to (1) conduct undercover testing to determine if for-profit college representatives engaged in fraudulent, deceptive, or otherwise questionable marketing practices, and (2) compare the cost of attending for-profit colleges tested with the cost of attending nonprofit colleges in the same geographic region.

To determine whether for-profit college representatives engaged in fraudulent, deceptive, or otherwise questionable sales and marketing practices, we investigated a nonrepresentative selection of 15 for-profit colleges located in Arizona, California, Florida, Illinois, Pennsylvania, Texas, and Washington, DC. We chose colleges based on several factors in order to test for-profit colleges offering a variety of educational services with varying corporate sizes and structures located across the country. Factors included whether a college received 89 percent or more of total revenue from Federal student aid according to Department of Education (Education) data or was located in a State that was among the top 10 recipients of title IV funding. We also chose a mix of privately held or publicly traded for-profit colleges. We reviewed Federal Trade Commission (FTC) statutes and regulations regarding unfair and deceptive marketing practices and Education statutes and regulations regarding what information postsecondary colleges are required to provide to students upon request and what constitutes substantial misrepresentation of services. During our undercover tests we attempted to identify whether colleges met these regulatory requirements, but we were not able to test all regulatory requirements in all tests.

Using fictitious identities, we posed as potential students to meet with the colleges' admissions and financial aid representatives and inquire about certificate programs, associate's degrees, and bachelor's degrees.[4] We inquired about one degree type and one major—such as cosmetology, massage therapy, construction management, or elementary education—at each college. We tested each college twice—once posing as a prospective student with an income low enough to qualify for Federal grants and subsidized student loans, and once as a prospective student with higher income and assets to qualify the student only for certain unsubsidized loans.[5] Our undercover applicants were ineligible for other types of Federal postsecondary education assistance programs such as benefits available under the Post-9/11 Veterans Educational Assistance Act of 2008 (commonly referred to as "the Post-9/11 G.I. bill"). We used fabricated documentation, such as tax returns, created with publicly available hardware, software and materials, and the Free Application for Federal Student Aid (FAFSA)—the form used by virtually all 2- and 4-year colleges, universities, and career colleges for awarding Federal student aid—during our in-person meetings. In addition, using additional bogus identities, investigators posing as four prospective students filled out forms on two Web sites that ask questions about students' academic interests, match them to colleges with relevant programs, and provide the students' information to colleges or the colleges' out-sourced calling center for follow-up about enrollment. Two students expressed interest in a culinary arts degree, and two other students expressed interest in a business administration degree. We filled out information on two Web sites with these fictitious prospective students' contact information and educational interests in order to document the type and frequency of contact the fictitious prospective students would receive. We then monitored the phone calls and voice mails received.

To compare the cost of attending for-profit colleges with that of nonprofit colleges, we used Education information to select public and private nonprofit colleges located in the same geographic areas as the 15 for-profit colleges we visited. We compared tuition rates for the same type of degree or certificate between the for-profit and nonprofit colleges. For the 15 for-profit colleges we visited, we used information obtained from campus representatives to determine tuition at these programs. For the nonprofit colleges, we obtained information from their Web sites or, when not available publicly, from campus representatives. Not all nonprofit colleges offered similar degrees, specifically when comparing associate's degrees and certificate programs. We cannot project the results of our undercover tests or cost comparisons to other for-profit colleges.

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[4] A certificate program allows a student to earn a college level credential in a particular field without earning a degree.

[5] Regardless of income and assets, all eligible students attending a title IV college are eligible to receive unsubsidized Federal loans. The maximum amount of the unsubsidized loan ranges from $2,000 to $12,000 per year, depending on the student's grade level and on whether the student is considered "dependent" or "independent" from his or her parents or guardians.

We plan to refer cases of school officials encouraging fraud and engaging in deceptive practices to Education's Office of Inspector General, where appropriate. Our investigative work, conducted from May 2010 through July 2010, was performed in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

BACKGROUND

In recent years, the scale and scope of for-profit colleges have changed considerably. Traditionally focused on certificate and programs ranging from cosmetology to medical assistance and business administration, for-profit institutions have expanded their offerings to include bachelor's, master's, and doctoral level programs. Both the certificate and degree programs provide students with training for careers in a variety of fields. Proponents of for-profit colleges argue that they offer certain flexibilities that traditional universities cannot, such as, online courses, flexible meeting times, and year-round courses. Moreover, for-profit colleges often have open admissions policies to accept any student who applies.

Currently, according to Education about 2,000 for-profit colleges participate in title IV programs and in the 2008–9 school year, for-profit colleges received approximately $24 billion in title IV funds. Students can only receive title IV funds when they attend colleges approved by Education to participate in the title IV program.

TITLE IV PROGRAM ELIGIBILITY CRITERIA

The Higher Education Act of 1965, as amended, provides that a variety of institutions of higher education are eligible to participate in title IV programs, including:

- Public institutions—Institutions operated and funded by State or local governments, which include State universities and community colleges.
- Private nonprofit institutions—Institutions owned and operated by nonprofit organizations whose net earnings do not benefit any shareholder or individual. These institutions are eligible for tax-deductible contributions in accordance with the Internal Revenue code (26 U.S.C. § 501(c)(3)).
- For-profit institutions—Institutions that are privately owned or owned by a publicly traded company and whose net earnings can benefit a shareholder or individual.

Colleges must meet certain requirements to receive title IV funds. While full requirements differ depending on the type of college, most colleges are required to: be authorized or licensed by the State in which it is located to provide higher education; provide at least one eligible program that provides an associate's degree or higher, or provides training to students for employment in a recognized occupation; and be accredited by an accrediting agency recognized by the Secretary of Education. Moreover, for-profit colleges must enter a "program participation agreement" with Education that requires the school to derive not less than 10 percent of revenues from sources other than title IV funds and certain other Federal programs (known as the "90/10 Rule"). Student eligibility for grants and subsidized student loans is based on student financial need. In addition, in order for a student to be eligible for title IV funds, the college must ensure that the student meets the following requirements, among others: has a high school diploma, a General Education Development certification, or passes an ability-to-benefit test approved by Education, or completes a secondary school education in a home school setting recognized as such under State law; is working toward a degree or certificate in an eligible program; and is maintaining satisfactory academic progress once in college.[6]

DEFAULTS ON STUDENT LOANS

In August 2009, GAO reported that in the repayment period, students who attended for-profit colleges were more likely to default on Federal student loans than were students from other colleges.[7] When students do not make payments on their Federal loans and the loans are in default, the Federal Government and taxpayers assume nearly all the risk and are left with the costs. For example, in the Direct Loan program, the Federal Government and taxpayers pick up 100 percent of the unpaid principal on defaulted loans. In addition, students who default are also at risk of facing a number of personal and financial burdens. For example, defaulted

[6] GAO previously investigated certain schools' use of ability-to-benefit tests. For more information, see GAO, *PROPRIETARY SCHOOLS: Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid*, GAO-09-600 (Washington, DC: August 17, 2009).

[7] GAO-09-600.

loans will appear on the student's credit record, which may make it more difficult to obtain an auto loan, mortgage, or credit card. Students will also be ineligible for assistance under most Federal loan programs and may not receive any additional title IV Federal student aid until the loan is repaid in full. Furthermore, Education can refer defaulted student loan debts to the Department of Treasury to offset any Federal or State income tax refunds due to the borrower to repay the defaulted loan. In addition, Education may require employers who employ individuals who have defaulted on a student loan to deduct 15 percent of the borrower's disposable pay toward repayment of the debt. Garnishment may continue until the entire balance of the outstanding loan is paid.

COLLEGE DISCLOSURE REQUIREMENTS

In order to be an educational institution that is eligible to receive title IV funds, Education statutes and regulations require that each institution make certain information readily available upon request to enrolled and prospective students.[8] Institutions may satisfy their disclosure requirements by posting the information on their Internet Web sites. Information to be provided includes: tuition, fees, and other estimated costs; the institution's refund policy; the requirements and procedures for withdrawing from the institution; a summary of the requirements for the return of title IV grant or loan assistance funds; the institution's accreditation information; and the institution's completion or graduation rate. If a college substantially misrepresents information to students, a fine of no more than $25,000 may be imposed for each violation or misrepresentation and their title IV eligibility status may be suspended or terminated.[9] In addition, the FTC prohibits "unfair methods of competition" and "unfair or deceptive acts or practices" that affect interstate commerce.

FOR-PROFIT COLLEGES ENCOURAGED FRAUD AND ENGAGED IN DECEPTIVE AND OTHERWISE QUESTIONABLE SALES AND MARKETING PRACTICES

Our covert testing at 15 for-profit colleges found that four colleges encouraged fraudulent practices, such as encouraging students to submit false information about their financial status. In addition all 15 colleges made some type of deceptive or otherwise questionable statement to undercover applicants, such as misrepresenting the applicant's likely salary after graduation and not providing clear information about the college's graduation rate. Other times our undercover applicants were provided accurate or helpful information by campus admissions and financial aid representatives. Selected video clips of our undercover tests can be seen at *http://www.gao.gov/products/GAO-10-948T*.

FRAUDULENT PRACTICES ENCOURAGED BY FOR-PROFIT COLLEGES

Four of the 15 colleges we visited encouraged our undercover applicants to falsify their FAFSA in order to qualify for financial aid. A financial aid officer at a privately owned college in Texas told our undercover applicant not to report $250,000 in savings, stating that it was not the government's business how much money the undercover applicant had in a bank account. However, Education requires students to report such assets, which along with income, are used to determine how much and what type of financial aid for which a student is eligible. The admissions representative at this same school encouraged the undercover applicant to change the FAFSA to falsely add dependents in order to qualify for grants. The admissions representative attempted to ease the undercover applicant's concerns about committing fraud by stating that information about the reported dependents, such as Social Security numbers, was not required. An admissions representative at another college told our undercover applicant that changing the FAFSA to indicate that he supported three dependents instead of being a single-person household might drop his income enough to qualify for a Pell Grant. In all four situations when college representatives encouraged our undercover applicants to commit fraud, the applicants indicated on their FAFSA, as well as to the for-profit college staff, that they had just come into an inheritance worth approximately $250,000. This inheritance was sufficient to pay for the entire cost of the undercover applicant's tuition. However, in all four cases, campus representatives encouraged the undercover applicants to take out loans and assisted them in becoming eligible either for grants or subsidized loans. It was unclear what incentive these colleges had to encourage our undercover

[8] 20 U.S.C. § 1092 and 34 CFR §§ 668.41–.49.

[9] U.S.C. § 1094 (c) (3) and 34 CFR §§ 668.71–.75. Additionally, Education has recently proposed new regulations that would enhance its oversight of title IV eligible institutions, including provisions related to misrepresentation and aggressive recruiting practices. See 75 Fed. Reg. 34,806 (June 18, 2010).

applicants to fraudulently fill out financial aid forms given the applicants' ability to pay for college. The following table provides more details on the four colleges involved in encouraging fraudulent activity.

Table 1: Fraudulent Actions Encouraged by For-Profit Colleges

Location	Certification Sought and Course of Study	Type of College	Fraudulent Behavior Encouraged
CA	Certificate—Computer Aided Drafting.	Less than 2-year, privately owned.	• Undercover applicant was encouraged by a financial aid representative to change the FAFSA to falsely increase the number of dependents in the household in order to qualify for Pell Grants. • The undercover applicant suggested to the representative that by the time the college would be required by Education to verify any information about the applicant, the applicant would have already graduated from the 7-month program. The representative acknowledged this was true. • This undercover applicant indicated to the financial aid representative that he had $250,000 in the bank, and was therefore capable of paying the program's $15,000 cost. The fraud would have made the applicant eligible for grants and subsidized loans.
FL	Associate's Degree—Radiologic Technology.	2-year, privately owned	• Admissions representative suggested to the undercover applicant that he not report $250,000 in savings reported on the FAFSA. The representative told the applicant to come back once the fraudulent financial information changes had been processed. • This change would not have made the applicant eligible for grants because his income would have been too high, but it would have made him eligible for loans subsidized by the government. However, this undercover applicant indicated that he had $250,000 in savings—more than enough to pay for the program's $39,000 costs.
PA	Certificate—Web Page Design.	Less than 2-year, privately owned.	Financial aid representative told the undercover applicant that he should have answered "zero" when asked about money he had in savings—the applicant had reported a $250,000 inheritance. • The financial aid representative told the undercover applicant that she would "correct" his FAFSA form by reducing the reported assets to zero. She later confirmed by email and voicemail that she had made the change. • This change would not have made the applicant eligible for grants, but it would have made him eligible for loans subsidized by the government. However, this applicant indicated that he had about $250,000 in savings—more than enough to pay for the program's $21,000 costs.

Table 1: Fraudulent Actions Encouraged by For-Profit Colleges—Continued

Location	Certification Sought and Course of Study	Type of College	Fraudulent Behavior Encouraged
TX	Bachelor's Degree—Construction Management.	4-year, privately owned	• Admissions representative encouraged applicant to change the FAFSA to falsely add dependents in order to qualify for Pell Grants. • Admissions representative assured the undercover applicant that he did not have to identify anything about the dependents, such as their Social Security numbers, nor did he have to prove to the college with a tax return that he had previously claimed them as dependents. • Financial aid representative told the undercover applicant that he should not report the $250,000 in cash he had in savings. • This applicant indicated to the financial aid representative that he had $250,000 in the bank, and was therefore capable of paying the program's $68,000 cost. The fraud would have made the undercover applicant eligible for more than $2,000 in grants per year.

Source: GAO.

DECEPTIVE OR QUESTIONABLE STATEMENTS

Admissions or financial aid representatives at all 15 for-profit colleges provided our undercover applicants with deceptive or otherwise questionable statements. These deceptive and questionable statements included information about the college's accreditation, graduation rates and its student's prospective employment and salary qualifications, duration and cost of the program, or financial aid. Representatives at schools also employed hard-sell sales and marketing techniques to encourage students to enroll.

Accreditation Information

Admissions representatives at four colleges either misidentified or failed to identify their colleges' accrediting organizations. While all the for-profit colleges we visited were accredited according to information available from Education, Federal regulations state that institutions may not provide students with false, erroneous, or misleading statements concerning the particular type, specific source, or the nature and extent of its accreditation. Examples include:

• A representative at a college in Florida owned by a publicly traded company told an undercover applicant that the college was accredited by the same organization that accredits Harvard and the University of Florida when in fact it was not. The representative told the undercover applicant: "It's the top accrediting agency—Harvard, University of Florida—they all use that accrediting agency. . . . All schools are the same; you never read the papers from the schools."

• A representative of a small beauty college in Washington, DC told an undercover applicant that the college was accredited by "an agency affiliated with the government," but did not specifically name the accrediting body. Federal and State government agencies do not accredit educational institutions.

• A representative of a college in California owned by a private corporation told an undercover applicant that this college was the only one to receive its accrediting organization's "School of Excellence" award. The accrediting organization's Web site listed 35 colleges as having received that award.

Graduation Rate, Employment and Expected Salaries

Representatives from 13 colleges gave our applicants deceptive or otherwise questionable information about graduation rates, guaranteed applicants jobs upon graduation, or exaggerated likely earnings. Federal statutes and regulations require that colleges disclose the graduation rate to applicants upon request, although this requirement can be satisfied by posting the information on their Web site. Thirteen

colleges did not provide applicants with accurate or complete information about graduation rates. Of these 13, 4 provided graduation rate information in some form on their Web site, although it required a considerable amount of searching to locate the information. Nine schools did not provide graduation rates either during our in-person visit or on their Web sites. For example, when asked for the graduation rate, a representative at a college in Arizona owned by a publicly traded company said that last year 90 students graduated, but did not disclose the actual graduation rate. When our undercover applicant asked about graduation rates at a college in Pennsylvania owned by a publicly traded company, he was told that if all work was completed, then the applicant should successfully complete the program—again the representative failed to disclose the college's graduation rate when asked. However, because graduation rate information was available at both these colleges' Web sites, the colleges were in compliance with Education regulations.

In addition, according to Federal regulations, a college may not misrepresent the employability of its graduates, including the college's ability to secure its graduates employment. However, representatives at two colleges told our undercover applicants that they were guaranteed or virtually guaranteed employment upon completion of the program. At five colleges, our undercover applicants were given potentially deceptive information about prospective salaries. Examples of deceptive or otherwise questionable information told to our undercover applicants included:

- A college owned by a publicly traded company told our applicant that, after completing an associate's degree in criminal justice, he could try to go work for the Federal Bureau of Investigation or the Central Intelligence Agency. While other careers within those agencies may be possible, positions as a FBI Special Agent or CIA Clandestine Officer, require a bachelor's degree at a minimum.
- A small beauty college told our applicant that barbers can earn $150,000 to $250,000 a year. While this may be true in exceptional circumstances, the Bureau of Labor Statistics (BLS) reports that 90 percent of barbers make less than $43,000 a year.
- A college owned by a publicly traded company told our applicant that instead of obtaining a criminal justice associate's degree, she should consider a medical assisting certificate and that after only 9 months of college, she could earn up to $68,000 a year. A salary this high would be extremely unusual; 90 percent of all people working in this field make less than $40,000 a year, according to the BLS.

Program Duration and Cost

Representatives from nine colleges gave our undercover applicants deceptive or otherwise questionable information about the duration or cost of their colleges' programs. According to Federal regulations, a college may not substantially misrepresent the total cost of an academic program. Representatives at these colleges used two different methods to calculate program duration and cost of attendance. Colleges described the duration of the program as if students would attend classes for 12 months per year, but reported the annual cost of attendance for only 9 months of classes per year. This disguises the program's total cost. Examples include:

- A representative at one college said it would take 3.5–4 years to obtain a bachelor's degree by taking classes year round, but quoted the applicant an annual cost for attending classes for 9 months of the year. She did not explain that attending classes for only 9 months out of the year would require an additional year to complete the program. If the applicant did complete the degree in 4 years, the annual cost would be higher than quoted to reflect the extra class time required per year.
- At another college, the representative quoted our undercover applicant an annual cost of around $12,000 per year and said it would take 2 years to graduate without breaks, but when asked about the total cost, the representative told our undercover applicant it would cost $30,000 to complete the program—equivalent to more than 2½ years of the previously quoted amount. If the undercover applicant had not inquired about the total cost of the program, she would have been led to believe that the total cost to obtain the associate's degree would have been $24,000.

Financial Aid

Eleven colleges denied undercover applicants access to their financial aid eligibility or provided questionable financial advice. According to Federal statutes and regulations, colleges must make information on financial assistance programs available to all current and prospective students.

- Six colleges in four States told our undercover applicants that they could not speak with financial aid representatives or find out what grants and loans they were eligible to receive until they completed the college's enrollment forms agreeing to become a student and paid a small application fee to enroll.

• A representative at one college in Florida owned by a publicly traded company advised our undercover applicant not to concern himself with loan repayment because his future salary—he was assured—would be sufficient to repay loans.

• A representative at one college in Florida owned by a private company told our undercover applicant that student loans were not like car loans because "no one will come after you if you don't pay." In reality, students who cannot pay their loans face fees, may damage their credit, have difficulty taking out future loans, and in most cases, bankruptcy law prohibits a student borrower from discharging a student loan.

• A representative at a college owned by a publicly traded corporation told our undercover applicant that she could take out the maximum amount of Federal loans, even if she did not need all the money. She told the applicant she could put the extra money in a high-interest savings account. While subsidized loans do not accrue interest while a student is in college, unsubsidized loans do accrue interest. The representative did not disclose this distinction to the applicant when explaining that she could put the money in a savings account.

OTHER SALES AND MARKETING TACTICS

Six colleges engaged in other questionable sales and marketing tactics such as employing hard-sell sales and marketing techniques and requiring enrolled students to pay monthly installments to the college during their education.

• At one Florida college owned by a publicly traded company, a representative told our undercover applicant she needed to answer 18 questions correctly on a 50 question test to be accepted to the college. The test proctor sat with her in the room and coached her during the test.

• At two other colleges, our undercover applicants were allowed 20 minutes to complete a 12-minute test or took the test twice to get a higher score.

• At the same Florida college, multiple representatives used high pressure marketing techniques, becoming argumentative, and scolding our undercover applicants for refusing to enroll before speaking with financial aid.

• A representative at this Florida college encouraged our undercover applicant to sign an enrollment agreement while assuring her that the contract was not legally binding.

• A representative at another college in Florida owned by a publicly traded company said that he personally had taken out over $85,000 in loans to pay for his degree, but he told our undercover applicant that he probably would not pay it back because he had a "tomorrow's never promised" philosophy.

• Three colleges required undercover applicants to make $20–$150 monthly payments once enrolled, despite the fact that students are typically not required to repay loans until after the student finishes or drops out of the program. These colleges gave different reasons for why students were required to make these payments and were sometimes unclear exactly what these payments were for. At one college, the applicant would have been eligible for enough grants and loans to cover the annual cost of tuition, but was told that she needed to make progress payments toward the cost of the degree separate from the money she would receive from loans and grants. A representative from this college told the undercover applicant that the Federal Government's "90/10 Rule" required the applicant to make these payments. However, the "90/10 Rule" does not place any requirements on students, only on the college.

• At two colleges, our undercover applicants were told that if they recruited other students, they could earn rewards, such as an MP3 player or a gift card to a local store.[10]

ACCURATE AND HELPFUL INFORMATION PROVIDED

In some instances our undercover applicants were provided accurate or helpful information by campus admissions and financial aid representatives. In line with Fed-

[10] Depending on the value of the gift, such a transaction may be allowed under current law. Federal statute requires that a college's program participation agreement with Education include a provision that the college will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities. However, Education's regulations have identified 12 types of payment and compensation plans that do not violate this statutory prohibition, referred to as "safe harbors." Under one of these exceptions, schools are allowed to provide "token gifts" valued under $100 to a student provided the gift is not in the form of money and no more than one gift is provided annually to an individual. However, on June 18, 2010 the Department of Education issued a notice of proposed rulemaking that would, among other things, eliminate these 12 safe harbors and restore the full prohibition.

eral regulations, undercover applicants at several colleges were provided accurate information about the transferability of credits to other postsecondary institutions, for example:

• A representative at a college owned by a publicly traded company in Pennsylvania told our applicant that with regard to the transfer of credits, "different schools treat it differently; you have to roll the dice and hope it transfers."

• A representative at a privately owned for-profit college in Washington, DC told our undercover applicant that the transfer of credits depends on the college the applicant wanted to transfer to.

Some financial aid counselors cautioned undercover applicants not to take out more loans than necessary or provided accurate information about what the applicant was required to report on his FAFSA, for example:

• One financial aid counselor at a privately owned college in Washington, DC told an applicant that because the money had to be paid back, the applicant should be cautious about taking out more debt than necessary.

• A financial aid counselor at a college in Arizona owned by a publicly traded company had the undercover applicant call the FAFSA help line to have him ask whether he was required to report his $250,000 inheritance. When the FAFSA help line representative told the undercover applicant that it had to be reported, the college financial aid representative did not encourage the applicant not to report the money.

In addition, some admissions or career placement staff gave undercover applicants reasonable information about prospective salaries and potential for employment, for example:

• Several undercover applicants were provided salary information obtained from the BLS or were encouraged to research salaries in their prospective fields using the BLS Web site.

• A career services representative at a privately owned for-profit college in Pennsylvania told an applicant that as an entry level graphic designer, he could expect to earn $10–$15 per hour. According to the BLS only 25 percent of graphic designers earn less than $15 per hour in Pennsylvania.

WEB SITE INQUIRIES RESULT IN HUNDREDS OF CALLS

Some Web sites that claim to match students with colleges are in reality lead generators used by many for-profit colleges to market to prospective students. Though such Web sites may be useful for students searching for schools in some cases, our undercover tests involving four fictitious prospective students led to a flood of calls—about five a day. Four of our prospective students filled out forms on two Web sites, which ask questions about students' interests, match them to for-profit colleges with relevant programs, and provide the students' information to the appropriate college or the college's out-sourced calling center for follow-up about enrollment. Two fictitious prospective students expressed interest in a culinary arts certificate, one on Web site A and one on Web site B. Two other prospective students expressed interest in a bachelor's in business administration degree, one on each Web site.

Within minutes of filling out forms, three prospective students received numerous phone calls from colleges. One fictitious prospective student received a phone call about enrollment within 5 minutes of registering and another five phone calls within the hour. Another prospective student received two phone calls separated only by seconds within the first 5 minutes of registering and another three phone calls within the hour. Within a month of using the Web sites, one student interested in business management received 182 phone calls and another student also interested in business management received 179 phone calls. The two students interested in culinary arts programs received fewer calls—one student received only a handful, while the other received 72. In total, the four students received 436 phone calls in the first 30 days after using the Web sites. Of these, only six calls—all from the same college—came from a public college.[11] The table below provides information about the calls these students received within the first 30 days of registering at the Web site.

[11] Of the 436 calls, not all resulted in a voice message in which a representative identified the school he or she was calling from. For those callers who did not leave a message, GAO attempted to trace the destination of the caller. In some cases GAO was not able to identify who placed the call to the student.

Table 2: Telephone Calls Received as a Result of Web site Inquiries

Student	Student's Location	Web Site Student Used	Degree	No. of Calls Received Within 24 Hours of Registering	Most Calls Received in One Day[1]	Total Number of Calls Received in a Month
1	GA	A	Business Administration	21	19	179
2	CA	B	Business Administration	24	18	182
3	MD	A	Culinary Arts	5	8	72
4	NV	B	Culinary Arts	2	1	3

Source: GAO
[1] This number is based on the number of calls received within the first month of registering but does not include the first 24 hours.

Tuition at For-Profit Colleges Is Sometimes Higher Than Tuition at Nearby Public and Private Nonprofit Colleges

During the course of our undercover applications, some college representatives told our applicants that their programs were a good value. For example, a representative of a privately owned for-profit college in California told our undercover applicant that the $14,495 cost of tuition for a computer-aided drafting certificate was "really low." A representative at a for-profit college in Florida owned by a publicly traded company told our undercover applicant that the cost of their associate's degree in criminal justice was definitely "worth the investment." However, based on information we obtained from for-profit colleges we tested, and public and private nonprofit colleges in the same geographic region, we found that most certificate or associate's degree programs at the for-profit colleges we tested cost more than similar degrees at public or private nonprofit colleges. We found that bachelor's degrees obtained at the for-profit colleges we tested frequently cost more than similar degrees at public colleges in the area; however, bachelor's degrees obtained at private nonprofit colleges nearby are often more expensive than at the for-profit colleges.

We compared the cost of tuition at the 15 for-profit colleges we visited, with public and private non-profit colleges located in the same geographic area as the for-profit college. We found that tuition in 14 out of 15 cases, regardless of degree, was more expensive at the for-profit college than at the closest public colleges. For 6 of the 15 for-profit colleges tested, we could not find a private nonprofit college located within 250 miles that offered a similar degree. For 1 of the 15, representatives from the private nonprofit college were unwilling to disclose their tuition rates when we inquired. At eight of the private nonprofit colleges for which we were able to obtain tuition information on a comparable degree, four of the for-profit colleges were more expensive than the private nonprofit college. In the other four cases, the private nonprofit college was more expensive than the for-profit college.

We found that tuition for certificates at for-profit colleges were often significantly more expensive than at a nearby public college. For example, our undercover applicant would have paid $13,945 for a certificate in computer-aided drafting program—a certification for a 7-month program obtained by those interested in computer-aided drafting, architecture, and engineering—at the for-profit college we visited. To obtain a certificate in computed-aided drafting at a nearby public college would have cost a student $520. However, for two of the five colleges we visited with certificate programs, we could not locate a private nonprofit college within a 250-mile radius and another one of them would not disclose its tuition rate to us. We were able to determine that in Illinois, a student would spend $11,995 on a medical assisting certificate at a for-profit college, $9,307 on the same certificate at the closest private nonprofit college, and $3,990 at the closest public college. We were also able to determine that in Pennsylvania, a student would spend $21,250 on a certificate in Web page design at a for-profit college, $4,750 on the same certificate at the closest private nonprofit college, and $2,037 at the closest public college.

We also found that for the five associate's degrees we were interested in, tuition at a for-profit college was significantly more than tuition at the closest public college. On average, for the five colleges we visited, it cost between 6 and 13 times more to attend the for-profit college to obtain an associate's degree than a public college. For example, in Texas, our undercover applicant was interested in an associate's degree in respiratory therapy which would have cost $38,995 in tuition at the for-profit college and $2,952 at the closest public college. For three of the associate's degrees we were interested in, there was not a private nonprofit college located within 250 miles of the for-profit we visited. We found that in Florida the associate's degree in Criminal Justice that would have cost a student $4,448 at a public college,

would have cost the student $26,936 at a for-profit college or $27,600 at a private nonprofit college—roughly the same amount. In Texas, the associate's degree in business administration would have cost a student $2,870 at a public college, $32,665 at the for-profit college we visited, and $28,830 at the closest private nonprofit college.

We found that with respect to the bachelor's degrees we were interested in, four out of five times, the degree was more expensive to obtain at the for-profit college than the public college. For example in Washington, DC, the bachelor's degree in Management Information Systems would have cost $53,400 at the for-profit college, and $51,544 at the closest public college. The same bachelor's degree would have cost $144,720 at the closest private nonprofit college. For one bachelor's degree, there was no private nonprofit college offering the degree within a 250 mile radius. Three of the four private nonprofit colleges were more expensive than their for-profit counterparts.

Table 3: Program Total Tuition Rates

Degree	Location	For-Profit College Tuition	Public College Tuition	Private Nonprofit College Tuition
Certificate—Computer-aided drafting	CA	$13,945	$520	College would not disclose
Certificate—Massage Therapy	CA	$14,487	$520	No college within 250 miles
Certificate—Cosmetology	DC	$11,500	$9,375	No college within 250 miles
Certificate—Medical Assistant	IL	$11,995	$3,990	$9,307
Certificate—Web Page Design	PA	$21,250	$2,037	$4,750
Associate's—Paralegal	AZ	$30,048	$4,544	No college within 250 miles
Associate's—Radiation Therapy	FL	$38,690	$5,621	No college within 250 miles
Associate's—Criminal Justice	FL	$26,936	$4,448	$27,600
Associate's—Business Administration	TX	$32,665	$2,870	$28,830
Associate's—Respiratory Therapist	TX	$38,995	$2,952	No college within 250 miles
Bachelor's—Management Information Systems.	DC	$53,400	$51,544	$144,720
Bachelor's—Elementary Education	AZ	$46,200	$31,176	$28,160
Bachelor's—Psychology	IL	$61,200	$36,536	$66,960
Bachelor's—Business Administration	PA	$49,200	$49,292	$124,696
Bachelor's—Construction Management	TX	$65,338	$25,288	No college within 250 miles

Source: Information obtained from for-profit colleges admissions employees and nonprofit college Web sites or employees.
Note: These costs do not include books or supplies, unless the college gave the undercover applicant a flat rate to attend the for-profit college, which was inclusive of books, in which case we were not able to separate the cost of books and supplies.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or other members of the committee may have at this time.

Appendix I: Detailed Results of Undercover Tests

The following table provides details on each of the 15 for-profit colleges visited by undercover applicants. We visited each school twice, posing once as an applicant who was eligible to receive both grants and loans (Scenario 1), and once as an applicant with a salary and savings that would qualify the undercover applicant only for unsubsidized loans (Scenario 2).

College Information and degree sought	Students receiving Pell Grants [1] [In percent]	Students receiving Federal loans [1] [In percent]	Graduation rate [1] [In percent]	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
1	27	39	15	Scenario 1
AZ—4-year, owned by publicly traded company.	.....	.....	.....	• Admissions representative compares the college to the University of Arizona and Arizona State University. • Admissions representative did not disclose the graduation rate after being directly asked. He provided information on how many students graduated. This information was available on the college's Web site; however, it required significant effort to find the college's graduation rate, and the college did not provide separate graduation rates for its multiple campuses nationwide.
Bachelor's—Education.	.....	.....	.....	• Admissions representative says that he does not know the job placement rate because a lot of students moved out of the area. • Admissions representative encourages undercover applicant to continue on with a master's degree after finishing with the bachelor's. He stated that some countries pay teachers more than they do doctors and lawyers. Scenario 2 • Admissions representative said the bachelor's degree would take a maximum of 4 years to complete, but she provided a 1-year cost estimate equal to ⅕ of the required credit hours. • According to the admissions representative the undercover applicant was qualified for $9,500 in student loans, and the representative indicated that the applicant could take out the full amount even though the applicant indicated that he had $250,000 in savings. • Admissions representative told the undercover applicant that the graduation rate is 20 percent. Education reports that it is 15 percent.
2	57	83	Not reported	Scenario 2
AZ—4-year, owned by publicly traded company.	.....	.....	.....	• Upon request by applicant, the financial aid representative estimated Federal aid eligibility without the undercover applicant's reported $250,000 in savings to see if applicant qualified for more financial aid. The representative informed the applicant he was ineligible for any grants.

College Information and degree sought	Students receiving Pell Grants [1] [In percent]	Students receiving Federal loans [1] [In percent]	Graduation rate [1] [In percent]	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
Associate's Degree—Paralegal.	.....	.....	.....	• Admissions representative misrepresented the length of the program by telling the undercover applicant that the 96-credit hour program would take 2 years to complete. However, she only provided the applicant a first year cost estimate for 36 credit hours. At this rate it would take more than 2.5 years to complete.
3	94	96	84	Scenario 1
CA—less than 2-year, privately owned.	.....	.....	.....	• College representative told the undercover applicant that if she failed to pass the college's required assessment test, she can continue to take different tests until she passes. • The college representative did not tell the graduation rate when asked directly. The representative replied, ''I think, pretty much, if you try and show up and, you know, do the work, you're going to graduate. You're going to pass guaranteed.'' The college's Web site also did not provide the graduation rate. • Undercover applicant was required to take a 12-minute admittance test but was given over 20 minutes because the test proctor was not monitoring the student.
Certificate—Computer Aided Drafting.	.....	.....	.....	• Scenario 2 • Undercover applicant was encouraged by a financial aid representative to change the FAFSA to falsely increase the number of dependents in the household in order to qualify for a Pell Grant. • The financial aid representative was aware of the undercover applicant's inheritance and, addressing the applicant's expressed interest in loans, confirmed that he could take out the maximum in student loans. • The career representative told the undercover applicant that getting a job is a ''piece of cake'' and then told the applicant that she has graduates making $120,000–$130,000 a year. This is likely the exception; according to the BLS 90 percent of architectural and civil drafters make less than $70,000 per year. She also stated that in the current economic environment, the applicant could expect a job with a likely starting salary of $13–$14 per hour or $15 if the applicant was lucky.
4	73	83	66	Scenario 1

College Information and degree sought	Students receiving Pell Grants [1] [In percent]	Students receiving Federal loans [1] [In percent]	Graduation rate [1] [In percent]	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
CA—2-year, owned by publicly traded company.	.....	.....	.....	• The financial aid representative would not discuss the under cover applicant's eligibility for grants and loans and required the applicant to return on another day.
Certificate—Massage Therapy.	.....	.....	.....	Scenario 2 • While one school representative indicated to the undercover applicant that he could earn up to $30 an hour as a massage therapist, another representative told the applicant that the school's massage instructors and directors can earn $150–$200 an hour. While this may be possible, according to the BLS, 90 percent of all massage therapists in California make less than $34 per hour.
5	34	66	71	Scenario 1
DC-4-year, privately owned.	.....	.....	.....	• Admissions representative explains to the undercover applicant that although community college might be a less expensive place to get a degree, community colleges make students spend money on classes that they do not need for their career. However, this school also requires students to take at least 36 credit hours of non-business general education courses. • Admissions representative did not disclose the graduation rate after being directly asked. He told the undercover applicant that it is a ''good'' graduation rate. The college's Web site also did not provide the graduation rate. • Admissions representative encouraged the undercover applicant to enroll by asking her to envision graduation day. He stated, ''Let me ask you this, if you could walk across the stage in a black cap and gown. And walk with the rest of the graduating class and take a degree from the president's hand, how would that make you feel?''

College Information and degree sought	Students receiving Pell Grants [1] [In percent]	Students receiving Federal loans [1] [In percent]	Graduation rate [1] [In percent]	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
Bachelor's Degree—Business Information Systems.	.....	.....	.....	Scenario 2 • Admissions representative said the bachelor's degree would take 3.5 to 4 years to complete. He gave the applicant the cost per 12 hour semester, the amount per credit, the total number of credits required for graduation, and the number of credits for the first year. When asked if the figure he gave multiplied by four would be the cost of the program, the representative said yes, although the actual tuition would have amounted to some $12,000 more. • Admissions representative required the undercover applicant to apply to the college before he could talk to someone in financial aid. • Admissions representative told the undercover applicant that almost all of the graduates get jobs. • Flyer provided to undercover applicant stated that the average income for business management professionals in 2004 was $77,000–$118,000. When asked more directly about likely starting salaries, the admissions representative said that it was between $40,000 and $50,000.
6	74	74	Not reported	Scenario 1
DC—less than 2-year, Privately owned.	.....	.....	.....	• Admissions representative told the undercover applicant that the college was accredited by ''an agency affiliated with the government,'' but did not specifically name the accrediting body. • Admissions representative suggested to the undercover applicant that all graduates get jobs. Specifically he told the applicant that if he had not found a job by the time he graduated from the school, the owner of the school would personally find the applicant a job himself.
Certificate—Cosmetology, Barber.	.....	.....	.....	Scenario 2 • Admissions representative told our undercover applicant that barbers can earn $150,000 to $250,000 a year, though that would be extremely unusual. The BLS reports that 90 percent of barbers make less than $43,000 a year. In Washington, DC, 90 percent of barbers make less than $17,000 per year. He said, ''The money you can make, the potential is astronomical.''
7	86	92	78	Scenario 1

College Information and degree sought	Students receiving Pell Grants [1] [In percent]	Students receiving Federal loans [1] [In percent]	Graduation rate [1] [In percent]	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
FL—2-year, privately owned.	.....	.....	.....	• When asked by the undercover applicant for the graduation rate for two programs, the admissions representative did not answer directly. For example the representative stated that ''I've seen it's an 80 to 90 graduation rate'' for one of the programs but said for that information ''I would have to talk to career services.'' She also said 16 or 17 students graduated from one of the programs, but couldn't say how many students had started the program. The college's Web site also did not provide the graduation rate.
Associate's Degree—Radiologic Therapy.	.....	.....	.....	• Admissions representative told our prospective undercover applicant that student loans were not like car loans because student loans could be deferred in cases of economic hardship, saying ''It's not like a car note where if you don't pay they're going to come after you. If you're in hardship and you're unable to find a job, you can defer it.'' The representative did not explain the circumstances under which students might qualify for deferment. Borrowers who do not qualify for deferment or forbearance and who cannot pay their loans face fees, may damage their credit or have difficulty taking out future loans. Moreover, in most cases, bankruptcy law prohibits a student borrower from discharging a student loan. Scenario 2 • Admissions representative suggested to the undercover applicant that he not report $250,000 in savings reported on the FAFSA. The representative told the applicant to come back once the fraudulent financial information changes had been processed. • This change would not have made the undercover applicant eligible for grants because his income would have been too high, but it would have made him eligible for loans subsidized by the government.
8	Not Reported ...	Not Reported ...	Not Reported	Scenario 1

College Information and degree sought	Students receiving Pell Grants [1] [In percent]	Students receiving Federal loans [1] [In percent]	Graduation rate [1] [In percent]	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
FL—2-year, owned by publicly traded company.	.....	.....	.....	• Admissions representative falsely stated that the college was accredited by the same agency that accredits Harvard and the University of Florida. • A test proctor sat in the test taking room with the undercover applicant and coached her during the test. • The undercover applicant was not allowed to speak to a financial aid representative until she enrolled in the college.
Associate's Degree—Criminal Justice.	.....	.....	.....	• Applicant had to sign agreement saying she would pay $50 per month toward her education while enrolled in college. • On paying back loans, the representative said, "You got to look at it . . . I owe $85,000 to the University of Florida. Will I pay it back? Probably not . . . I look at life as tomorrow's never promised. . . . Education is an investment, you're going to get paid back tenfold, no matter what." • Admissions representative suggested undercover applicant switch from criminal justice to the medical assistant certificate, where she could make up to $68,000 per year. While this may be possible, BLS reports 90 percent of medical assistants make less than $40,000 per year. Scenario 2 • When the applicant asked about financial aid, the 2 representatives would not answer but debated with him about his commitment level for the next 30 minutes. • The representative said that student loans would absolutely cover all costs in this 2-year program. The representative did not specify that Federal student loans by themselves would not cover the entire cost of the program. While there are private loan programs available, they are normally based on an applicant passing a credit check, and typically carry higher interest rates than Federal student loans. • The representative said paying back loans should not be a concern because once he had his new job, repayment would not be an issue. • The representatives used hard-sell marketing techniques; they became argumentative, called applicant afraid, and scolded applicant for not wanting to take out loans.
9	83	80	70	Scenario 2

College Information and degree sought	Students receiving Pell Grants [1] [In percent]	Students receiving Federal loans [1] [In percent]	Graduation rate [1] [In percent]	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
IL—2-year, privately owned.	.....	.....	.....	• Admissions representative initially provided misleading information to the undercover applicant about the transferability of the credit. First she told the applicant that the credits will transfer. Later, she correctly told the applicant that it depends on the college and what classes have been taken.
Certificate—Medical Assistant.	.....	.....	.....	
10	Not reported	Not reported	Not reported	Scenario 1
IL—4-year, owned by publicly traded company.	.....	.....	.....	• Admissions representative said the bachelor's degree would take 3.5–4 years to complete, but only provided an annual cost estimate for ⅕ of the program.
Bachelor's Degree—Psychology.	.....	.....	.....	Scenario 2 • Admissions representative did not provide the graduation rate when directly asked. Instead she indicated that not everyone graduates.
11	47	58	9	Scenario 1
PA—4-year, owned by publicly traded company.	.....	.....	.....	Admissions representative told the undercover applicant that she could take out the maximum amount of Federal loans, even if she did not need all the money. She told the applicant she could put the extra money in a high-interest savings account. While subsidized loans do not accrue interest while a student is in college, unsubsidized loans do accrue interest. The representative did not disclose this distinction to the applicant when explaining that she could put the money in a savings account.

College Information and degree sought	Students receiving Pell Grants [1] [In percent]	Students receiving Federal loans [1] [In percent]	Graduation rate [1] [In percent]	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
Bachelor's Degree—Business Administration.	.....	.....	.....	Scenario 2 • Admissions representative told the undercover applicant that the college is regionally accredited but does not state the name of the accrediting agency. The college's Web site did provide specific information about the college's accreditation, however. • Admissions representative said financial aid may be able to use what they call ''professional judgment'' to determine that the undercover applicant does not need to report over $250,000 in savings on the FAFSA. • Admissions representative did not disclose the graduation rate after being directly asked. He instead explained that all students that do the work graduate. This information was available on the college's Web site; however, it required significant effort to find the college's graduation rate, and the college did not provide separate graduation rates for its multiple campuses nationwide.
12	52	69	56	Scenario 1
PA—less than 2-year, privately owned.	.....	.....	.....	Admissions representative told the undercover applicant that she has never seen a student decline to attend after speaking with financial aid. The admissions representative would not allow the applicant to speak with financial aid until she enroll in the college. • If the undercover applicant was able to get a friend to enroll in the college she could get an MP3 player and a rolling backpack. As noted in the testimony, although this is not illegal, it is a marketing tactic.
Certificate—Web Page Design.	.....	.....	.....	Scenario 2 • Financial aid representative told the undercover applicant that he should have answered ''zero'' when asked about money he had in savings—the applicant had reported a $250,000 inheritance. • The financial aid representative told the undercover applicant that she would change his FAFSA form by reducing the reported assets to zero. She later confirmed by e-mail and voicemail that she had made the change. • This change would not have made the undercover applicant eligible for grants, but it would have made him eligible for loans subsidized by the government.

College Information and degree sought	Students receiving Pell Grants [1] [In percent]	Students receiving Federal loans [1] [In percent]	Graduation rate [1] [In percent]	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
13	81	99	54	Scenario 1
TX—4-year, privately owned.				• Admissions representative said the program would cost between $50,000 and $75,000 instead of providing a specific number. It was not until the admissions representative later brought the student to financial aid that specific costs of attendance were provided.
Bachelor's Degree—Construction Management; Visual Communications.				Scenario 2 • Admissions representative did not disclose the graduation rate after being directly asked. The college's Web site also did not provide the graduation rate. • Admissions representative encouraged undercover applicant to change the FAFSA to falsely add dependents in order to qualify for grants. • This undercover applicant indicated to the financial aid representative that he had $250,000 in the bank, and was therefore capable of paying the program's $68,000 cost. The fraud would have made the applicant eligible for $2,000 in grants per year.
14	89	92	34	Scenario 1
TX—2-year, owned by publicly traded company.				• Admissions representative said the program takes 18 to 24 months to complete, but provided a cost estimate that suggests the program takes more than 2.5 years to complete. • The college's Web site did not provide the graduation rate.
Associate's Degree—Business Administration.				Scenario 2 • Undercover applicant would be required to make a monthly payment to the college towards student loans while enrolled. • Admissions representative guaranteed the undercover applicant that getting a degree would increase his salary.
15	100	100	70	Scenario 1
TX—2-year, privately owned.				The undercover applicant was not allowed to speak to a financial aid representative until he enrolled in the college.

College Information and degree sought	Students receiving Pell Grants [1] [In percent]	Students receiving Federal loans [1] [In percent]	Graduation rate [1] [In percent]	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
Associate's Degree—Respiratory Therapy.	.....	.....	.....	Scenario 2 • Admissions representative misrepresented the length of time it would take to complete the degree. He said the degree would take 2 years to complete but provided a cost worksheet that spanned 3 years. • The undercover applicant was told he was not allowed to speak to a financial aid representative until he enrolled in the college. After refusing to sign an enrollment agreement the applicant was allowed to speak to someone in financial aid. • Admissions representative told undercover applicant that monthly loan repayment would be lower than it actually would.

Source: GAO undercover visits and Department of Education.
[1] This information was obtained from the Department of Education National Center for Education Statistics.

GAO Redlined Summary of Revisions

Table 1: Fraudulent Actions Encouraged by For-Profit Colleges

Location	Certification Sought and Course of Study	Type of College	Fraudulent Behavior Encouraged
CA	Certificate - Computer Aided Drafting	Less than 2-year, privately owned	• Undercover applicant was encouraged by a financial aid representative to change the FAFSA to falsely increase the number of dependents in the household in order to qualify for Pell Grants. • The undercover applicant suggested to the representative that by the time the college would be required by Education to verify any information about the applicant, the applicant would have already graduated from the 7-month program. The representative acknowledged that this was true. • This undercover applicant indicated to the financial aid representative that he had $250,000 in the bank, and was therefore capable of paying the program's $15,000 cost. The fraud would have made the applicant eligible for grants and subsidized loans.
FL	Associate's Degree - Radiologic Technology	2-year, privately owned	• Admissions representative suggested to the undercover applicant that he not report $250,000 in savings reported on the FAFSA. The representative told the applicant to come back once the fraudulent financial information changes had been processed. • This change would not have made the applicant eligible for grants because his income would have been too high, but it would have made him eligible for loans subsidized by the government. However, this undercover applicant indicated that he had $250,000 in savings—more than enough to pay for the program's $39,000 costs.
PA	Certificate - Web Page Design	Less than 2-year, privately owned	• Financial aid representative told the undercover applicant that he should have answered "zero" when asked about money he had in savings—the applicant had reported a $250,000 inheritance. • The financial aid representative told the undercover applicant that she would "correct" his FAFSA form by reducing the reported assets to zero. She later confirmed by email and voicemail that she had made the change. • This change would not have made the applicant eligible for grants, but it would have made him eligible for loans subsidized by the government. However, this applicant indicated that he had about $250,000 in savings—more than enough to pay for the program's $21,000 costs.
TX	Bachelor's Degree - Construction Management	4-year, privately owned	• Admissions representative encouraged applicant to change the FAFSA to falsely add dependents in order to qualify for Pell Grants. • Admissions representative assured the undercover applicant that he did not have to identify anything about the dependents, such as their Social Security numbers, nor did he have to prove to the college with a tax return that he had previously claimed them as dependents. • Financial aid representative told the undercover applicant that he should not report the $250,000 in cash he had in savings. • This applicant indicated to the financial aid representative that he had $250,000 in the bank, and was therefore capable of paying the program's $68,000 cost. The fraud would have made the undercover applicant eligible for more than $2,000 in grants per year.

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Deceptive or Questionable Statements

Admissions or financial aid representatives at all 15 for-profit colleges provided our undercover applicants with deceptive or otherwise questionable statements. These deceptive and questionable statements included information about the college's accreditation, graduation rates and its student's prospective employment and salary qualifications, duration and cost of the program, or financial aid. Representatives at schools also employed hard-sell sales and marketing techniques to encourage students to enroll.

Accreditation Information

Admissions representatives at four colleges either misidentified or failed to identify their colleges' accrediting organizations. While all the for-profit colleges we visited were accredited according to information available from Education, federal regulations state that institutions may not provide students with false, erroneous, or misleading statements concerning the particular type, specific source, or the nature and extent of its accreditation. Examples include:

- A representative at a college in Florida owned by a publicly traded company told an undercover applicant that the college was accredited by the same organization that accredits Harvard and the University of Florida when in fact it was not. The representative told the undercover applicant: "It's the top accrediting agency—Harvard, University of Florida—they all use that accrediting agency....All schools are the same; you never read the papers from the schools."
- A representative of a small beauty college in Washington, D.C. told an undercover applicant that the college was accredited by "an agency affiliated with the government," but did not specifically name the accrediting body. Federal and state government agencies do not accredit educational institutions.
- A representative of a college in California owned by a private corporation told an undercover applicant that this college was the only one to receive its accrediting organization's "School of Excellence" award. The accrediting organization's Web site listed 35 colleges as having received that award.

Graduation Rate, Employment and Expected Salaries

Representatives from 13 colleges gave our applicants deceptive or otherwise questionable information about graduation rates, guaranteed applicants jobs upon graduation, or exaggerated likely earnings. Federal statutes and regulations require that colleges disclose the graduation rate to applicants upon request, although this requirement can be satisfied by posting the information on their Web site. Thirteen colleges did not

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- A representative at one college in Florida owned by a publicly traded company advised our undercover applicant not to concern himself with loan repayment because his future salary—he was assured—would be sufficient to repay loans.
- A representative at one college in Florida owned by a private company told our undercover applicant that student loans were not like car loans because "no one will come after you if you don't pay." In reality, students who cannot pay their loans face fees, may damage their credit, have difficulty taking out future loans, and in most cases, bankruptcy law prohibits a student borrower from discharging a student loan.
- A representative at a college owned by a publicly traded corporation told our undercover applicant that she could take out the maximum amount of federal loans, even if she did not need all the money. She told the applicant she could put the extra money in a high-interest savings account. While subsidized loans do not accrue interest while a student is in college, unsubsidized loans do accrue interest. The representative did not disclose this distinction to the applicant when explaining that she could put the money in a savings account.

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Other Sales and Marketing Tactics

Six colleges engaged in other questionable sales and marketing tactics such as employing hard-sell sales and marketing techniques and requiring enrolled students to pay monthly installments to the college during their education.

- At one Florida college owned by a publicly traded company, a representative told our undercover applicant she needed to answer 18 questions correctly on a 50 question test to be accepted to the college. The test proctor sat with her in the room and coached her during the test.
- At two other colleges, our undercover applicants were allowed 20 minutes to complete a 12-minute test or took the test twice to get a higher score.
- At the same Florida college, multiple representatives used high pressure marketing techniques, becoming argumentative, and scolding our undercover applicants for refusing to enroll before speaking with financial aid.
- A representative at this Florida college encouraged our undercover applicant to sign an enrollment agreement while assuring her that the contract was not legally binding.

Appendix I: Detailed Results of Undercover Tests

The following table provides details on each of the 15 for-profit colleges visited by undercover applicants. We visited each school twice, posing once as an applicant who was eligible to receive both grants and loans (Scenario 1), and once as an applicant with a salary and savings that would qualify the undercover applicant only for unsubsidized loans (Scenario 2).

College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
1 AZ - 4-year, owned by publicly traded company Bachelor's – Education	27%	39%	15%	Scenario 1 • Admissions representative compares the college to the University of Arizona and Arizona State University. • Admissions representative did not disclose the graduation rate after being directly asked. He provided information on how many students graduated. This information was available on the college's Web site; however, it required significant effort to find the college's graduation rate, and the college did not provide separate graduation rates for its multiple campuses nationwide. • Admissions representative says that he does not know the job placement rate because a lot of students moved out of the area. • Admissions representative encourages undercover applicant to continue on with a master's degree after finishing with the bachelor's. He stated that some countries pay teachers more than they do doctors and lawyers. Scenario 2 • Admissions representative said the bachelor's degree would take a maximum of 4 years to complete, but she provided a 1-year cost estimate equal to 1/5 of the required credit hours. • According to the admissions representative the undercover applicant was qualified for $9,500 in student loans, and the representative indicated that the applicant could take out the full amount even though the applicant indicated that he had $250,000 in savings. Admissions representative told the undercover applicant that the graduation rate is 20 percent. Education reports that it is 15 percent.

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College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
2 AZ - 4-year, owned by publicly traded company Associate's Degree – Paralegal	57%	83%	Not reported	Scenario 2 • Upon request by applicant, the financial aid representative estimated federal aid eligibility without the undercover applicant's reported $250,000 in savings to see if applicant qualified for more financial aid. The representative informed the applicant he was ineligible for any grants. • Admissions representative misrepresented the length of the program by telling the undercover applicant that the 96 credit hour program would take 2 years to complete. However, she only provided the applicant a first year cost estimate for 36 credit hours. At this rate it would take more than 2.5 years to complete
3 CA – less than 2-year, privately owned Certificate – Computer Aided Drafting	94%	96%	84%	Scenario 1 • College representative told the undercover applicant that if she failed to pass the college's required assessment test, she can continue to take different tests until she passes. • The college representative did not tell the graduation rate when asked directly. The representative replied, "I think, pretty much, if you try and show up and, you know, do the work, you're going to graduate. You're going to pass guaranteed." The college's Web site also did not provide the graduation rate. • Undercover applicant was required to take a 12-minute admittance test but was given over 20 minutes because the test proctor was not monitoring the student. Scenario 2 • Undercover applicant was encouraged by a financial aid representative to change the FAFSA to falsely increase the number of dependents in the household in order to qualify for a Pell Grant. • The financial aid representative was aware of the undercover applicant's inheritance and, addressing the applicant's expressed interest in loans, confirmed that he could take out the maximum in student loans. • The career representative told the undercover applicant that getting a job is a "piece of cake" and then told the applicant that she has graduates making $120,000 - $130,000 a year. This is likely the exception; according to the BLS 90 percent of architectural and civil drafters make less than $70,000 per year. She also stated that in the current economic environment, the applicant could expect a job with a likely starting salary of $13-$14 per hour or $15 if the applicant was lucky.

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College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
4 CA - 2-year, owned by publicly traded company Certificate – Massage Therapy	73%	83%	66%	Scenario 1 • The financial aid representative would not discuss the undercover applicant's eligibility for grants and loans and required the applicant to return on another day. Scenario 2 • While one school representative indicated to the undercover applicant that he could earn up to $30 an hour as a massage therapist, another representative told the applicant that the school's massage instructors and directors can earn $150-200 an hour. While this may be possible, according to the BLS, 90 percent of all massage therapists in California make less than $34 per hour.
5 DC - 4-year, privately owned Bachelor's Degree – Business Information Systems	34%	66%	71%	Scenario 1 • Admissions representative explains to the undercover applicant that although community college might be a less expensive place to get a degree, community colleges make students spend money on classes that they do not need for their career. However, this school also requires students to take at least 36 credit hours of non-business general education courses. • Admissions representative did not disclose the graduation rate after being directly asked. He told the undercover applicant that it is a "good" graduation rate. The college's Web site also did not provide the graduation rate. • Admissions representative encouraged the undercover applicant to enroll by asking her to envision graduation day. He stated, "Let me ask you this, if you could walk across the stage in a black cap and gown. And walk with the rest of the graduating class and take a degree from the president's hand, how would that make you feel?" Scenario 2 • Admissions representative said the bachelor's degree would take 3.5 to 4 years to complete. He gave the applicant the cost per 12 hours semester, the amount per credit, the total number of credits required for graduation, and the number of credits for the first year. When asked if the figure he gave multiplied by four would be the cost of the program, the representative said yes, although the actual tuition would have amounted to some $12,000 more. • Admissions representative required the undercover applicant to apply to the college before he could talk to someone in financial aid. • Admissions representative told the undercover applicant that almost all of the graduates get jobs. • Flyer provided to undercover applicant stated that the average income for business management professionals in 2004 was $77,000-$118,000. When asked more directly about likely starting salaries, the admissions representative said that it was between $40,000 and $50,000.

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College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
6 DC – less than 2-year, Privately owned Certificate – Cosmetology, Barber	74%	74%	Not reported	Scenario 1 • Admissions representative told the undercover applicant that the college was accredited by "an agency affiliated with the government," but did not specifically name the accrediting body. • Admissions representative suggested to the undercover applicant that all graduates get jobs. Specifically he told the applicant that if he had not found a job by the time he graduated from the school, the owner of the school would personally find the applicant a job himself. Scenario 2 • Admissions representative told our undercover applicant that barbers can earn $150,000 to $250,000 a year, though that would be extremely unusual. The BLS reports that 90 percent of barbers make less than $43,000 a year. In Washington, D.C., 90 percent of barbers make less than $17,000 per year. He said, "The money you can make, the potential is astronomical."

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College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
7 FL - 2-year, privately owned Associate's Degree – Radiologic Therapy	86%	92%	78%	Scenario 1 • When asked by the undercover applicant for the graduation rate for two programs, the admissions representative did not answer directly. For example the representative stated that "I've seen it's a 80 to 90% graduation rate" for one of the programs but said for that information "I would have to talk to career services." She also said 16 or 17 students graduated from one of the programs, but couldn't say how many students had started the program. The college's Web site also did not provide the graduation rate. • Admissions representative told our prospective undercover applicant that student loans were not like car loans because student loans could be deferred in cases of economic hardship, saying "it's not like a car note where if you don't pay they're going to come after you. If you're in hardship and you're unable to find a job, you can defer it." The representative did not explain the circumstances under which students might qualify for deferment. Borrowers who do not qualify for deferment or forbearance and who cannot pay their loans face fees, may damage their credit or have difficulty taking out future loans. Moreover, in most cases, bankruptcy law prohibits a student borrower from discharging a student loan. Scenario 2 • Admissions representative suggested to the undercover applicant that he not report $250,000 in savings reported on the FAFSA. The representative told the applicant to come back once the fraudulent financial information changes had been processed. • This change would not have made the undercover applicant eligible for grants because his income would have been too high, but it would have made him eligible for loans subsidized by the government.

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College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
8 FL - 2-year, owned by publicly traded company Associate's Degree – Criminal Justice	Not Reported	Not Reported	Not Reported	Scenario 1 • Admissions representative falsely stated that the college was accredited by the same agency that accredits Harvard and the University of Florida. • A test proctor sat in the test taking room with the undercover applicant and coached her during the test. • The undercover applicant was not allowed to speak to a financial aid representative until she enrolled in the college. • Applicant had to sign agreement saying she would pay $50 per month toward her education while enrolled in college. • On paying back loans, the representative said, "You gotta look at it…I owe $85,000 to the University of Florida. Will I pay it back? Probably not…I look at life as tomorrow's never promised…Education is an investment, you're going to get paid back ten-fold, no matter what." • Admissions representative suggested undercover applicant switch from criminal justice to the medical assistant certificate, where she could make up to $68,000 per year. While this may be possible, BLS reports 90% of medical assistants make less than $40,000 per year. Scenario 2 • When the applicant asked about financial aid, the 2 representatives would not answer but debated with him about his commitment level for the next 30 minutes. • The representative said that student loans would absolutely cover all costs in this 2-year program. The representative did not specify that federal student loans by themselves would not cover the entire cost of the program. While there are private loan programs available, they are normally based on an applicant passing a credit check, and typically carry higher interest rates than federal student loans • The representative said paying back loans should not be a concern because once he had his new job, repayment would not be an issue. • The representatives used hard-sell marketing techniques; they became argumentative, called applicant afraid, and scolded applicant for not wanting to take out loans.

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College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
9 IL - 2-year, privately owned Certificate – Medical Assistant	83%	80%	70%	Scenario 2 • Admissions representative initially provided misleading information to the undercover applicant about the transferability of the credit. First she told the applicant that the credits will transfer. Later, she correctly told the applicant that it depends on the college and what classes have been taken.
10 IL - 4-year, owned by publicly traded company Bachelor's Degree - Psychology	Not reported	Not reported	Not reported	Scenario 1 • Admissions representative said the bachelor's degree would take 3.5-4 years to complete, but only provided an annual cost estimate for 1/5 of the program. Scenario 2 • Admissions representative did not provide the graduation rate when directly asked. Instead she indicated that not everyone graduates.
11 PA - 4-year, owned by publicly traded company Bachelor's Degree – Business Administration	47%	58%	9%	Scenario 1 • Admissions representative told the undercover applicant that she could take out the maximum amount of federal loans, even if she did not need all the money. She told the applicant she could put the extra money in a high-interest savings account. While subsidized loans do not accrue interest while a student is in college, unsubsidized loans do accrue interest. The representative did not disclose this distinction to the applicant when explaining that she could put the money in a savings account. Scenario 2 • Admissions representative tells the undercover applicant that the college is regionally accredited but does not state the name of the accrediting agency. The college's Web site did provide specific information about the college's accreditation, however. • Admissions representative said financial aid may be able to use what they call "professional judgment" to determine that the undercover applicant does not need to report over $250,000 in savings on the FAFSA. • Admissions representative did not disclose the graduation rate after being directly asked. He instead explained that all students that do the work graduate. This information was available on the college's Web site; however, it required significant effort to find the college's graduation rate, and the college did not provide separate graduation rates for its multiple campuses nationwide.

College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
12 PA – less than 2-year, privately owned Certificate – Web Page Design	52%	69%	56%	Scenario 1 • Admissions representative told the undercover applicant that she has never seen a student decline to attend after speaking with financial aid. The admissions representative would not allow the applicant to speak with financial aid until she enrolls in the college. • If the undercover applicant was able to get a friend to enroll in the college she could get an MP3 player and a rolling backpack. As noted in the testimony, although this is not illegal, it is a marketing tactic. Scenario 2 • Financial aid representative told the undercover applicant that he should have answered "zero" when asked about money he had in savings—the applicant had reported a $250,000 inheritance. • The financial aid representative told the undercover applicant that she would change his FAFSA form by reducing the reported assets to zero. She later confirmed by e-mail and voicemail that she had made the change. • This change would not have made the undercover applicant eligible for grants, but it would have made him eligible for loans subsidized by the government.
13 TX - 4-year, privately owned Bachelor's Degree – Construction Management; Visual Communications	81%	99%	54%	Scenario 1 • Admissions representative said the program would cost between $50,000 and $75,000 instead of providing a specific number. (It was not until the admissions representative later brought the student to financial aid that specific costs of attendance were provided.) Scenario 2 • Admissions representative did not disclose the graduation rate after being directly asked. The college's Web site also did not provide the graduation rate. • Admissions representative encouraged undercover applicant to change the FAFSA to falsely add dependents in order to qualify for grants. • This undercover applicant indicated to the financial aid representative that he had $250,000 in the bank, and was therefore capable of paying the program's $68,000 cost. The fraud would have made the applicant eligible for $2,000 in grants per year.

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College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
14 TX - 2-year, owned by publicly traded company Associate's Degree – Business Administration	89%	92%	34%	Scenario 1 • Admissions representative said the program takes 18 to 24 months to complete, but provided a cost estimate that suggests the program takes more than 2.5 years to complete. • The college's Web site did not provide the graduation rate. Scenario 2 • Undercover applicant would be required to make a monthly payment to the college towards student loans while enrolled. • Admissions representative guaranteed the undercover applicant that getting a degree would increase his salary.
15 TX - 2-year, privately owned Associate's Degree – Respiratory Therapy	100%	100%	70%	Scenario 1 • The undercover applicant was not allowed to speak to a financial aid representative until he enrolled in the college. Scenario 2 • Admissions representative misrepresented the length of time it would take to complete the degree. She said the degree would take 2 years to complete but provided a cost worksheet that spanned 3 years. • The undercover applicant was told he was not allowed to speak to a financial aid representative until he enrolled in the college. After refusing to sign an enrollment agreement the applicant was allowed to speak to someone in financial aid. • Admissions representative told undercover applicant that monthly loan repayment would be lower than it actually would.

Source: GAO undercover visits and Department of Education.

*This information was obtained from the Department of Education National Center for Education Statistics.

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Memorandum

Date: March 1, 2011

To: GAO Employees

From: Comptroller General—Gene L. Dodaro

Subject: Executive Announcements

Since the Forensic Audits and Special Investigations team was formed in 2005 the team's body of work has resulted in numerous accomplishments and benefits to the Congress and the public. To ensure good work continues and to bring greater management attention to the group and more seamlessly integrate its work with GAO's program teams as well as the audit and investigative sides of the unit, today I am announcing several changes. These enhancements will also ensure greater attention to the issues that led to the need to produce the errata to the for-profit schools report and by the subsequent inspection.

The team will be restructured and renamed the Forensic Audits and Investigative Service (FAIS) team and I am pleased to announce that Rick Hillman, the current Managing Director of the Financial Markets and Community Investments team, has agreed to serve as the Managing Director of the new FAIS team. I am also pleased to announce that as part of this new FAIS team structure, Greg Kutz will serve as Director of Audit Services. Another executive will be brought in as Director of Investigative Services and a search is underway for that individual.

This new structure will provide greater emphasis on both forensic audits and investigations. We also will enhance the matrixed efforts the team conducts working with other teams across the agency to focus on investigative results that demonstrate the impact of identified management control and other problems. We will also increase the focus on some of our high-risk work such as the detection, correction and prevention of improper payments. The new FAIS team will be subject to GAO's rigorous regular internal inspections and external peer reviews. The inspection report on the for-profit school work identified areas to improve quality control and we will also move expeditiously to implement each of those recommendations and any new recommendations that come from the ongoing inspections of FAIS' portfolio of work. We are looking at FAIS staffing, workload and enhanced training to ensure we are well-positioned to support the important work the team does both individually and with the support of other mission teams.

These changes are effective immediately. I hope you will join me in wishing Rick and Greg much success in their new positions.

Richard J. Hillman

Rick Hillman will bring strong leadership to manage this restructuring. As a career-long GAO employee, Mr. Hillman has served GAO in many capacities. Mr. Hillman is currently Managing Director in the Financial Markets and Community Investment team and has led that team since 2005. In 1997, Mr. Hillman was promoted into GAO's Senior Executive Service as an Associate Director in the General Government Division working in the financial institutions and markets issues area. Prior to that, he was a Band III analyst in the Office of Program Planning and the Office of the Assistant Comptroller General for Planning and Reporting. Mr. Hillman also served for over 6 years in senior and supervisory information systems analyst positions in GAO's Information Management and Technology Division.

Mr. Hillman joined GAO's headquarters office entry-level program in 1976. He subsequently worked in GAO's Washington Regional Office until his reassignment to work in the accounting and financial auditing group in the Accounting and Financial Management Division.

Mr. Hillman graduated with honors with a B.S. degree in accounting from the University of Scranton. He also has completed additional course work in government management and in computer technology and information systems issues. He has earned numerous GAO honors throughout his career including GAO's Comptroller General's Award in 2009, Distinguished Service Award in 2003, and Meritorious Service Awards in 1986 and 1996 and other individual performance and teamwork awards.

Greg Kutz

These changes will allow us to take better advantage of Greg Kutz's wealth of experience in forensic and other audit services. Mr. Kutz has been Managing Director of the Forensic Audits and Special Investigations Unit (FSI) and has served in that capacity since 2005. In 1991, Mr. Kutz joined the Government Accountability Office after 8 years at KPMG Peat Marwick. As a Senior Executive at GAO, Mr. Kutz has testified at congressional hearings over 80 times primarily on matters related to fraud, waste and abuse and other special investigations. Mr. Kutz has been responsible for reports issued by GAO and testimony relating to credit card and travel fraud and abuse, improper sales of sensitive military and dual use technology, tax fraud and abuse, wage theft, Hurricane Katrina and Rita fraud, and a variety of other high profile investigations. Mr. Kutz is a Certified Public Accountant (CPA), Certified Fraud Examiner (CFE), and Member of the Association of Certified Fraud Examiners Professional Standards and Practices Committee. He was also a 2010 Service to America Medals Finalist for Law Enforcement and Justice.

RESPONSE TO QUESTIONS OF SENATOR ENZI BY KATHLEEN TIGHE

Question 1. Oversight of institutions of higher education relies on the so-called "triad," which consists of the U.S. Department of Education (Department), State regulation, and accreditation. Please explain your understanding of the responsibilities held by each in providing oversight of higher education. What weaknesses, if any, do you see in this system?

Answer 1. The *Higher Education Act of 1965*, as amended (HEA), provides eligibility criteria that an institution must meet in order to participate in the Federal student aid programs. States, 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 accrediting institutions; 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 systematic basis, designed to include all institutions of higher education participating in the Federal student aid programs.

The Department has the primary oversight responsibility for the HEA Title IV programs. The Department accomplishes this through program reviews of institu-

tions and reviews of the annual financial statement and compliance audits. In the past, the Office of Inspector General (OIG) has identified weaknesses in the Department's program review function. We periodically evaluate the program review function and will be doing so this year. Our quality assurance reviews of non-Federal auditors hired by institutions to perform required annual, independent audits have shown significant weaknesses in the quality of compliance work performed by the auditors.

Accrediting agencies recognized by the Secretary are supposed to ensure the quality of postsecondary education at the institutions they accredit through sufficiently rigorous standards. The Department cannot direct accrediting agencies to improve or raise its standards. Our recent work on accrediting agencies and the definition of a credit hour has shown that accrediting agencies may not be reliable authorities on the quality of education. None of the regional accrediting agencies we reviewed had a definition of credit hour or provided guidance to institutions or peer reviewers on the appropriate assignment of credit hours to the courses provided by the institutions. The meaning of a credit hour is of critical importance to the title IV programs because it is the primary basis of student funding by the Federal Government.

One of the primary roles of the States is to provide assurance to the Department that the institutions participating in the Federal student aid programs are authorized to provide education beyond the secondary level within the State. Of the three members of the triad, States are the weakest link. Each State is different in its treatment of postsecondary schools, ranging from States with strong regulation and enforcement of high standards for postsecondary education to States that just provide a business license. States' oversight may also vary by type of school. For example, some States may scrutinize State schools more closely, because State tax funds and State grants support the school. States have less incentive to oversee proprietary schools, because generally no State funding is provided.

Question 2. The inside cover of the Office of Inspector General Audit Reports contains the disclaimer that "conclusions and recommendations in this report, represent the opinions of the Office of Inspector General. Determinations of corrective action to be taken will be made by the appropriate Department of Education officials." Does this mean it would be improper to conclude that the subject of a particular audit violated the law simply based on a report from your office? If not, why?

Answer 2. No, it would not be improper to conclude the subject of an audit violated laws or regulations based simply on an OIG audit report. As an independent organization within the Department, our office makes its own assessment of violations of laws and or regulations, supported by facts, and we make our recommendations to Department management. Prior to the issuance of a final audit report, we have already provided a copy of the draft audit report to the Department and the auditee and received feedback on whether it believes we have correctly applied laws and regulations. OIG may make changes to the final audit report based on this feedback. OIG also has a vigorous internal quality control process to assure each report accurately reflects laws and regulations and that the findings are supported by appropriate evidence.

We include this disclaimer in our final audit reports for the public to understand that it is Department management's responsibility for a final determination in the audit resolution process in accordance with Office of Management and Budget Circular A–50. As part of that process, management allows the subject of the audit an opportunity to provide any additional information they believe could have a bearing on the final determination that a violation occurred and the appropriate administrative actions are warranted.

Question 3. In your testimony, you discussed fraud rings that sign up fake students to obtain Federal funds and noted that your office has 66 currently open investigations. Of the 66, please break down the number of non-profit, for-profit and public schools where investigations are ongoing? What are the characteristics of the public schools that have been found to have fraud rings operating?

Answer 3. Of the 66 fraud rings we were investigating at the time of the hearing, 40 of them involved non-profit or public schools and 26 involved for-profit schools. These fraud rings mainly target on-line programs at lower-cost institutions. Fraud rings operate in on-line environments because it allows criminals to avoid setting foot on campus which makes exploiting schools easier. They mainly target lower-cost institutions because the Federal student aid awards are sufficient to satisfy institutional charges (such as tuition) and result in disbursement of the balance of an award to the student for other educational expenses (such as books, room and board, and commuting expenses).

Question 4. The Office of Inspector General released a report finding similar title IV funds management problems with distance learning at Baker College, a non-profit school in August 2010. To what extent and in what ways do these problems involving title IV funds management identified in your report on Ashford also occur in public and non-profit schools?

Answer 4. Over the last several years we have completed and issued five audit reports on distance education schools and identified similar findings in the awarding, disbursing and returning of title IV funds. We have issued four audit reports on proprietary schools, and one on a non-profit school, Baker College. We have two ongoing audits of other distance education schools, one proprietary school and one non-profit school. We also recently initiated another audit on the oversight of distance education by the Department, accrediting agencies and States. As part of this audit we will be visiting a variety of schools including 2-year and 4-year distance education programs at public and non-profit, as well as for-profit. This audit should give us a better picture of distance education programs in a variety of schools.

Question 5. As you noted in your testimony, much of the existing regulatory and oversight framework is "based on traditional, semester-based classroom instruction, and in particular, determining whether students in distance education are 'regular students' as required by the HEA and actually in attendance for Federal student aid purposes." What are some of the more acute challenges that the Department faces in adapting its regulatory and oversight framework to distance education?

Answer 5. A difficult problem facing the distance education schools and the Department is assuring the identity of the persons enrolling and verifying accuracy of applications for financial aid. For example, many proprietary distance education schools and community colleges do not require high school transcripts or other credentials, and schools can rely on the applicant's self assertion that they have a high school diploma or GED. As long as an applicant uses the identity of a real person (i.e., name, social security number and date of birth), the application for financial aid will likely pass the data matches the Department uses to screen applications for basic eligibility. Also, an applicant can claim little or no income to qualify for the maximum amount of title IV funds, and the Department does not have authority to verify income with the Internal Revenue Service. The next problem for schools and the Department is determining if the student is actually attending the distance education program. Tracking students' attendance in the on-line environment is a problem we have consistently found and is a contributing factor to problems with the awarding, disbursing and returning title IV funds.

The Department also faces problems in ensuring that students are provided with the right amount of title IV aid for their postsecondary work. While this is not unique to distance education schools, we believe it is a significant challenge for distance education. Accrediting agencies vary in their attention to the value of a credit hour, providing little assurance that full-time postsecondary work is actually required at all institutions. Since the regional accrediting agencies we reviewed either could not or did not provide guidance on the assignment of credit hours for even traditional semester-based programs, the issue is magnified when dealing with distance education.

Question 6. A Daily Caller article released the same day as your testimony describes a short seller's attempts to obtain insider information from your office on the Ashford audit. What are your office's policies on releasing information or discussing an audit before it is issued? How were those policies observed in this case to the best of your knowledge?

Answer 6. OIG has a longstanding policy and our staff are trained to operate within that policy that an ongoing audit is not discussed within anyone but the auditee and the pertinent department management. As such, we do not release draft reports to anyone other than the auditee and pertinent departmental management until the final report is issued. This is done so as the auditee has an opportunity to review the findings and provide OIG with information that may not have been provided previously to address those findings.

If asked by a congressional committee for information on an audit not yet final, we offer to brief the staff; however, we do not provide a copy of the report until it is final, and in such briefings, we make clear that the information may change based on our receipt of any new information from the auditee, and thus cannot be publicly disclosed. If asked by the press or general public for information on an audit not yet issued in final, our policy is to confirm that we have an audit underway and state that we cannot discuss the details of our ongoing work. The individual mentioned in the Daily Caller article contacted OIG on several occasions. To

the best of our knowledge, in keeping with our policy, OIG staff did not provide him with a copy of our draft report, nor did OIG staff discuss our findings with him.

RESPONSE TO QUESTIONS OF SENATOR ENZI BY SYLVIA MANNING

Question 1. During the hearing, Senator Hagen asked if faculty and administrative salaries are a factor considered by HLC in its accreditation reviews. Why does HLC not review salaries of faculty and administrators? If appropriate, how would you propose that salaries be considered as a factor in the accreditation process? If it is not appropriate, why not?

Answer 1. The HLC does review salaries of faculty and administrators, but not in the way that appeared to be intended by Senator Hagen's question. The question before the HLC reviewers is not the sufficiency or excess of any particular salaries, but the possible relationship of salary structure to the quality of education.

The role of the HLC is to review the quality of the education offered by institutions that seek accreditation by the Commission and to make a judgment to recognize that quality by awarding accreditation. In making that judgment the Commission considers a multitude of factors: one significant factor is the quality of the faculty. The Commission reviews a number of items in making a determination regarding the quality of the faculty. These items include the credentials and experience of the faculty, their role in the teaching and learning process, and their broader role in sharing governance of the institution with the administration and the governing board. The Commission also looks carefully at the experience and qualifications of the institution's senior administrators as well as their role in leading the institution. The quality of the faculty and their role in the institution, as well as the leadership of the senior administrators, contribute greatly to the quality of the instructional program.

As a part of a comprehensive review of an institution the Commission receives detailed financial information about that institution's assets and expenditures. This information includes recent audited financial statements and budgets for recent and forthcoming years. In conjunction with this financial information the Commission has aggregate and individual salary information for faculty positions as well as for administrative positions. The Commission considers this information in determining whether the institution is contributing sufficient financial resources to support an instructional program of appropriate quality. In addition, the Commission considers whether compensation practices support appropriate student-faculty ratios and otherwise contribute to an environment in which there is appropriate attention to academic quality.

The Commission must consider what limitations the law places on its activities. In the case of the faculty and administrative salaries, antitrust considerations prohibit the Commission from directly regulating compensation. A Federal district court has previously agreed with the Department of Justice that an accreditor's practices attempting to regulate compensation at its accredited schools were an unnecessary restraint of trade and that considerations related to compensation were not directly relevant to the quality of the institution's academic program, which was the principal focus of the accreditor (*United States* v. *American Bar Association Final Judgment and Consent Decree 1995*). Therefore the Commission's focus related to compensation remains determining whether those expenditures are part of an overall pattern of institutional expenditures indicating appropriate attention to instructional and institutional quality. I believe that this focus related to compensation is indeed the right role for an accreditor.

In so far as the Congress has concerns about the use of Federal funds in what it views as excessive compensation for administrators or executives, I would respectfully suggest that such use be regulated directly through requirements for the use of Federal student aid funds rather than through accreditation.

REPONSE TO QUESTION OF SENATOR ENZI BY JOSÉ CRUZ

Question. Since January 20, 2008, have you been employed by the Department of Education or the Obama administration in any capacity? Have you worked for the Administration on a contractual basis during this time? If so, please explain the nature and scope of the work performed—as well as any compensation provided. Please also provide the committee with copies of any consulting contracts.

Answer. Since January 20, 2008 I have not been employed by the Department of Education or the Obama administration in any capacity. I have not worked for the Administration on a contractual basis during this time, but in April 2009 I did serve on a review panel for the National Science Foundation's Centers for Research Excellence in Science and Technology (CREST). In accordance with standard NSF procedures, the Foundation covered the cost of my round-trip airfare (coach class) and

provided me with a travel reimbursement of $280 and a meeting reimbursement of $480 a day. The review panel lasted 2 days. These reinforcements covered the cost of my hotel, ground travel in DC, and meals for the duration of the review panel.

LETTERS

U.S. SENATE,
WASHINGTON, DC 20510–6300,
October 26, 2010.

Mr. MICHAEL D. BOPP,
Gibson Dunn,
1050 Connecticut Avenue, NW,
Washington, DC 20036.

DEAR MR. BOPP: As you know, on August 5, 2010 your clients, Corinthian Colleges, Inc., received a document request from the Senate HELP Committee. The request asked your client to provide two sets of documents with production deadlines of August 26 and September 16, 2010. We note that a number of items from the production requested for September 16 remain outstanding.

We recognize that the request sought a significant amount of information that took time to compile and review, and for that reason the committee has been generous in allowing extensions of time to comply with the September 16 deadline. In fact, no recipient of the document request was asked to complete production prior to October 5, almost 3 weeks after the deadline. We also acknowledge that your client has provided responses or partial responses to a number of the requested items, and that you have assured the committee that efforts to complete the production are ongoing.

However, given the elapsed time and the need for the committee to complete its review in a timely fashion, the committee hereby requests that all remaining responsive documents, not including email communications, be provided no later than November 5, 2010. To the extent that documents have been withheld for any reason for any item in the second production, a log listing all withheld documents along with the reason for withholding each document, as set forth in Section M of the instructions accompanying the August 5 request, should also be provided no later than November 5. Moreover, as stated in paragraph 1 of the Data Delivery Standards, please ensure that your cover letter includes, for each item, the Bates range and a general description of responsive documents.

With regard to items that call for email communications, given the time required to search and review potentially responsive emails, additional time is being provided to allow for the completion of these items. However, we wish to reaffirm that work on reviewing these materials should be moving towards conclusion, and the committee expects production of all responsive emails no later than November 16, 2010.

Thank you for your prompt attention to this matter, and please feel free to contact Chief Investigative Counsel Elizabeth Stein at 202–224–2931 with any questions.

Sincerely,

DANIEL E. SMITH,
Staff Director, Committee on Health, Education, Labor, and Pensions.

U.S. SENATE,
WASHINGTON, DC 20510–6300,
January 21, 2011.

Mr. WILLIAM O'REILLY,
Jones Day,
Louisiana Avenue, NW,
Washington, DC 20001.

DEAR MR. O'REILLY: I am writing in response to your letter, dated December 14, 2010, regarding the undercover visits by representatives of the Government Accountability Office (GAO) to Argosy University in Chicago, owned by your client Education Management Corporation. Your letter asks that findings made by the GAO about recruiting practices at Argosy be removed from the record on the grounds that they are inaccurate. I respectfully disagree and believe that the GAO findings with regard to Argosy are clear.

I would also note that while Argosy was included in the overall findings of misleading and deceptive practices at all colleges visited by GAO, at the insistence of

HELP Committee staff Argosy was also singled out in the report and in the testimony at the August 4, 2010 hearing for certain "good practices" the recruiter demonstrated during one of the visits.

You correctly note that revisions made to the GAO findings in the November 30, 2010 errata include the deletion of a reference to the qualifications of the professors at Argosy. I believe that this finding required more context as it related to the counseling experience of the psychology faculty, but should have remained in the report. Documents received by the committee suggest that this is a common response provided to questions about faculty qualifications, and in fact is often used to obscure the fact that the faculty often have limited academic qualifications. For that reason, I believe the excerpt provided useful and important information.

You specifically raise concerns with the following additional findings of the GAO:

1. Admission representative said the bachelor's degree would take 3.5 to 4 years to complete, but provided an annual cost estimate for 1/5 of the program.

You correctly state that, in the audio, the admissions representative says that the program requires 120 credits, and separately states the program can be completed in 3.5 years if the student goes full-time including summer. The representative also explains that the program costs $510 per credit hour, plus a $10 fee. However, she then says that most students take 12 credits per semester which costs $6,240, or $12,480 a year.

While a prospective student with a calculator in hand and fast typing skills could have come up with a correct cost estimate of $61,200 for the program, the information conveyed to the undercover representative implied that the cost was 3½ years at $12,480 a year (or $43,680), significantly lower than it actually was. Moreover, while this was the only instance of this type of tactic employed by Argosy, it was not the only instance of underestimating total cost encountered by undercover GAO representatives. The fact that this type of underestimation occurred at multiple schools likely and correctly played a role in the determination to include this exchange in the findings.

2. Admissions representative did not provide the graduation rate when directly asked. Instead she indicated that not everyone graduates.

As you note, the actual exchange goes "Does everyone graduate who starts?" and the response given is, "I don't know what our graduation rate is. I know, it's not 100 percent." There simply is no question of fact in this instance. Moreover, it strains credibility that the representative did not actually know the graduation rate.

I would like to also take this opportunity to point out some additional questionable conduct documented by GAO but not included in the report.

In Argosy Scenario 2, the school representative tells the applicant that he may be eligible for interest-free loans, telling the applicant that "the unsubsidized loan has interest, the subsidized loan does not." As you know, while interest on subsidized loans does not accrue while a student is enrolled in school, the Federal Government does not offer interest-free loans to higher education students.

Thank you for taking the time to raise your concerns with me, and for providing me with the opportunity to share with you and your client additional questionable behavior documented by the GAO. While I believe that the practices demonstrated by Argosy representatives in the GAO undercover visits are at the less egregious end of the spectrum of practices documented, they nonetheless demonstrate the misleading and deceptive tactics that seem to pervade for-profit recruiting at this time. The GAO report and the underlying investigative work have provided a valuable window into the practices of companies like those operated by your client, and I commend the GAO for the time and professionalism they have brought to this project.

Sincerely,

TOM HARKIN,
Chairman, Committee on Health, Education, Labor, and Pensions.

U.S. SENATE,
WASHINGTON, DC 20510–6300,
February 1, 2011.

Mr. DUNCAN ANDERSON,
President and Chief Executive Officer,
5026 Campbell Blvd., Suite D,
Baltimore, MD 21236.

DEAR MR. ANDERSON: I am writing in response to your letter of December 17, 2010, regarding the undercover visits by representatives of the Government Accountability Office (GAO) to MedVance Institute in Miami, owned by your company, Education Affiliates. Your letter asks that findings made by the GAO about recruiting practices at MedVance be removed from the record on the grounds that they are inaccurate. I respectfully disagree and believe that the GAO findings with regard to MedVance are clear.

You specifically raise concerns with the following findings of the GAO:

1. When asked by the undercover applicant for the graduation rate for two programs, the admissions representative did not answer directly. For example the representative stated that "I've seen it's an 80 to 90 percent graduation rate" for one of the programs but said for that information "I would have to talk to career services." She also said 16 or 17 students graduated from one of the programs, but couldn't say how many students had started the program. The college's Web site also did not provide the graduation rate.

Your letter is correct that the errata issued by the GAO on November 30, 2010, both clarified that the question regarding graduation rate was asked for two programs, and provided additional detail regarding the MedVance representative's incorrect and misleading answers to the questions. Avoiding the question by stating how many students started and providing an answer that does not match actual statistics is misleading conduct. I am also confident that if you listen to the tapes again you will note that the graduation rates estimate is for a program in medical coding and billing while the statement regarding how many students finished recently pertains to a radiology program. The report also notes that the MedVance Web site did not provide the graduation rate. As you note, this is not a violation of law but it is also not a practice that promotes informed student enrollments. Together the three failures to provide adequate information on graduation rates sheds light on practices that your company might presumably be focused on improving rather than defending.

2. Admissions representative told our prospective undercover applicant that student loans were not like car loans because student loans could be deferred in cases of economic hardship, saying "It's not like a car note where if you don't pay they're going to come after you. If you're in hardship and you're unable to find a job, you can defer it." The representative did not explain the circumstances under which students might qualify for deferment. Borrowers who do not qualify for deferment or forbearance and who cannot pay their loans face fees, may damage their credit or have difficulty taking out future loans. Moreover, in most cases, bankruptcy law prohibits a student borrower from discharging a student loan.

The GAO errata properly provides the new context that the MedVance representative's statement that the student loan was not like a car loan where "if you don't pay they are going to come after you" was made in the context of explaining that student loans may be placed in forbearance or deferred. While this is a true statement, the representative made it sound as this was a simple transaction with no negative consequences, when, in fact, there are criteria that must be met for deferment, both forbearance and deferment are time limited, and interest accrues throughout the both deferment and forbearance, thus potentially vastly increasing the cost of the loan. Additionally, unlike any other consumer loan, student loans can almost never be discharged in bankruptcy, and as you know, the Federal Government will, in fact, come after delinquent borrowers rather relentlessly, going so far as to attach tax refunds and Social Security payments. While deferment and forbearance provide important flexibility to students in repayment, neither is the equivalent of a "get out of jail free card." Given the increasing numbers of for-profit students being counseled into immediate forbearance as evidenced by the committee's document requests, this exchange is of interest to the committee.

3. Admissions representative suggested to the undercover applicant that he not report $250,000 in savings reported on the FAFSA. The representative told the applicant to come back once the fraudulent financial information changes had been processed. This change would not have made the undercover applicant eligible for grants

because his income would have been too high, but it would have made him eligible for loans subsidized by the government.

You state that the audiotapes do not support the allegation that either the financial aid or the admissions representative suggested that he not report his inheritance. I have included the exchange below to clarify that both representatives, but particularly the admissions representative, encouraged the undercover GAO representative to resubmit the FAFSA without the $250,000 inheritance. While the conversation is somewhat lengthy it occurred as follows:

GAO 1: "Now, I put in, uhm, you know, that I had some money from inheritance, uhm, which is a big chunk, you know. Does that need to go in there, that's not money that I worked for, or anything like that."

Financial Aid Representative: "It's up to you. I cannot tell you what to but there, but if you already reported it, I mean—

GAO 1: "I can't make changes to it anymore?"

Financial Aid Representative: "It's up to you. You can go in there and make any changes you want."

GAO 1: "And then they will recalculate it?"

Financial Aid Representative: "Mmmhmm—So, if you want to do that—So, I'm going to have this, let me give you that paperwork."

GAO 1: "OK. We're good?"

Admissions Representative: "No, you're not good yet, don't you want to try to do some stuff today?"

GAO 1: "Well, she was going to give me some—"

Admissions Representative: "OK. There's a change that you want to make in your financial aid, right?"

GAO 1: "Well, I put a big chunk in there, I don't know if it should be in there."

Admissions Representative: "So, what happens is if you make that change, it's going to take like three days for her to get a new form and be able to give you accurate figures. OK?"

GAO 1: "OK, yeah."

Admissions Representative: "So what are your options? Changing and waiting the three days, but it might help you out some. Or not changing it and basing it on the figures that you have right now. What do you want? A or B?"

GAO 2: "It'd be good to see what, you know, what could happen."

GAO 1: "Yeah. I'd like A. To change, right?"

Admissions Representative: "To make the change. OK."

Financial Aid Representative: "OK."

Admissions Representative: "Because that means that you're going to have to hold tight a little bit. But your patience in the long run may reward you. It's probably going to give you a more accurate figure. Because right now we base it on that, you may only qualify for a certain amount and we're going to have a clearer picture once we make that change. Does that make sense?"

GAO 1: "Yeah, yeah."

GAO 2: "What do you think is the biggest problem? You think its like his income or things like that amount he put down?"

Financial Aid Representative: "That amount."

GAO 2: "That amount. yeah, I mean, you wouldn't have to put that on your tax return. Because it wasn't—like an inheritance."

GAO 1: "Yeah, I didn't work for that I just—"

GAO 2: "Yeah. So maybe you shouldn't put it down. They wouldn't know."

Admissions Representative: "No . . . that happens. There's a lot of things that I didn't know unless someone like—helped me out."

GAO 1: "So, I'll make the changes and then I'll—"

Admissions Representative: "Yeah, make the changes. She'll show you how to do that. And hold tight then for about three days and then we'll set you up for an appointment to come back and then you'll have an accurate—(conversation proceeds to where to find a Starbucks).

While it is clear that the interest of both the admissions representative and the financial aid representative is to get the undercover GAO representative enrolled *that day*, when they accept that it is not going to happen both acknowledge that removing the FAFSA reportable inheritance might affect the amount of financial aid he receives. The financial aid representative in particular never states that the Department of Education requires applicants to report cash, savings and investments on the FAFSA. This is made clear in several Department of Education publications.

A properly trained representative should not have even tacitly endorsed changing a FAFSA to exclude reportable amounts.

Finally, I would like to also take this opportunity to point out some additional questionable conduct documented by GAO but not included in the report.

In the course of the first visit to MedVance, the representative leads the undercover prospective student to believe that she will receive student loan forgiveness from any hospital employer stating:

> "You can step into a hospital tomorrow and say to HR, 'I have 23,000 in student loans, can you pay it off?' And they'll say, 'OK Terri, you have to work with us for a year and a half and we're going to pay it off.'"

This is an astounding misrepresentation of the availability of loan repayment programs, and one that I hope Education Affiliates will repudiate and take steps to ensure that no such practices are ongoing.

Thank you for taking the time to raise your concerns with me, and for providing me with the opportunity to share with you and your company additional questionable behavior documented by the GAO. The GAO report and the underlying investigative work have provided a valuable window into the practices of companies like yours, and I commend the GAO for the time and professionalism they have brought to this project.

Sincerely,

TOM HARKIN,
Chairman, Committee on Health, Education, Labor, and Pensions.

Senator LAMAR ALEXANDER,
U.S. Senate,
455 Dirksen Senate Office Building,
Washington, DC 20510–0001.

DEAR SENATOR ALEXANDER: As part of the Ashford University family, I'm asking you to support my university at the Senate HELP Committee hearing on March 10. I would like to tell you about my experience. I am a retired military veteran, full-time employee and student, and a husband and father whose main goal is to complete his degree and be an inspiration to his 5-year-old daughter. Leading by example has always been a part of my military and personal life. So in order for me to preach the importance of having an education to my daughter, I must first practice what I preach. What better way than continuing my education.

When I retired from the U.S. Navy after serving faithfully for 26 years, searching for a university that wouldn't be a hindrance to my way of life was first and foremost. I searched numerous institutions hoping I would find one that could work around my job and family while giving me the necessary credit for my military experience. With that being said, "Ashford was the obvious choice." It's rich traditions, curriculum, knowledgeable instructors, and commitment to excellence was the key behind my decision to attend Ashford. Since enrolling, I have been able to maintain my way of life and complete the courses at the pace that's beneficial for me. Most full-time employees do not get that opportunity to sit in a classroom setting in obtaining or reaching that goal in earning a degree, so we must look for alternatives.

Ashford and other's like her are truly beneficial to our active duty personnel, reservists, retirees (who has a full-time job), and the working people; because our demand for service is so intense that we do not get those same opportunities like some civilians to attend a college of our choice without some type of drawback. So before making any decisions, I ask that you all look at the statistics of what these types of universities offer not only to our military, but to everyone. Private sector colleges are just as challenging and have the same opportunities as those so-called prestigious colleges/universities. Their curriculum is just as challenging and rewarding, the instructors are very knowledgeable of their specialty, and they are committed to their faculty and student body. Please reconsider your decision and walk in our shoes for a chance and you'll see how beneficial these private sector universities are to people like me and our military.

Sincerely,

LOUIS GLADNEY,
Memphis, TN 38125–4417.

Senator LAMAR ALEXANDER,
U.S. Senate,
455 Dirksen Senate Office Building,
Washington, DC 20510–0001.

DEAR SENATOR ALEXANDER: As part of the Ashford University family, I'm asking you to support my university at the Senate HELP Committee hearing on March 10. I would like to tell you about my experience. I am a military spouse and I began attending Ashford University in November. We are currently stationed overseas and Ashford has been such a great help at helping me achieve my goals and making my dreams possible. They have helped me every step of the way and whenever I have any questions they are always there to answer. I have not had one single problem with this university and I have had many recruits due to the positive feedback I have given. My husband has also chose to attend this college while he is pursuing his active army career. I hope there is nothing but positive things to be said about this university.

Sincerely,

AMANDA KNOCHEL,
Pigeon Forge, TN 37863–5704.

Senator LAMAR ALEXANDER,
U.S. Senate,
455 Dirksen Senate Office Building,
Washington, DC 20510–0001.

DEAR SENATOR ALEXANDER: As part of the Ashford University family, I'm asking you to support my university at the Senate HELP Committee hearing on March 10. I would like to tell you about my experience.

I am a 28-year-old single mother of three. I have just went through a devastating divorce and child custody battle. I went to get my associates and my bachelors from a traditional college campus. I was miserable because I hated the degree I was in, hated how I was just a number without a face and that no one seemed to care or understand that I was needed more at home than I was doing something for myself. I found Ashford University at an on-line research database for people who could not go to a traditional college because of family, medical, or military reasons. Doing this one small thing for myself has meant the world to me. I am not just a number to them. Ashford took the time to find what my real passion was and that going back to school and switching majors so late in life and with so much to worry about (the kids, the divorce, work) I could still do this one thing for me! If you take away on-line education than you might as well take away at-home schooling for grades K–12. It is unconstitutional to try to tell a person how they can get an education, where they have to go to get that education and not offer citizens other options based on non-traditional classes. Everyone can not go to a traditional class room and sit there for multiple hours while others work and toil around them, some have to go any time they can get the extra hours in the day; I am one of those people.

In closing I think that to attack these kinds of schools will lead to a weakening of an already weak economy since most are trying to go back to school to get a better job, and now they will be forced to choose between a low paying job (that promotes poverty) or going to school (which in this case could promote a market crash in a wobbling system). I need Ashford just like so many others in my situation NEED Ashford. And frankly, the society that I am living in needs me, the educated, improved me, that can go to school and strive for and achieve a better future. Not just for me but for my children and those that come after us.

Thank you.

Sincerely,

SAMANTHA RHEA,
Russellville, TN 37860–9333.

Senator MIKE B. ENZI,
U.S. Senate,
379A Russell Senate Office Building,
Washington, DC 20510–0001.

DEAR SENATOR ENZI: As part of the Ashford University family, I'm asking you to support my university at the Senate HELP Committee hearing on March 10. I would like to tell you about my experience.

I was really nervous to go back to school. I was scared that I would mess everything up and not be able to get accepted into college. Ashford made it extremely easy for me to start school. My academic counselor walked me through everything. Within a few weeks I started school. I have been attending Ashford for 7 months now. I love it. I have a 3.8 GPA. I did not even do that well when I was in High School. They have made me feel comfortable and happy. I love it there!

Sincerely,

STEPHANIE VALLEJO,
Sheridan, WY 82801–4844.

CITIZENS FOR RESPONSIBILITY
AND ETHICS IN WASHINGTON (CREW),
MARCH 1, 2011.

ARNE DUNCAN,
Secretary of Education,
U.S. Department of Education,
Washington, DC 20202.

DEAR SECRETARY DUNCAN: Citizens for Responsibility and Ethics in Washington ("CREW") writes to followup to our letter to you of January 19, 2011, requesting that you examine the role hedge fund managers and outside interest groups have played in the Department of Education's (Education) formulation of regulations governing the for-profit education industry. Additional agency records CREW obtained recently in response to our Freedom of Information Act (FOIA) request provide further evidence that high-level Education officials involved in the agency rulemaking process not only knew of the efforts of certain hedge fund managers to influence the regulatory outcome, but may themselves have colluded with those individuals to protect the short-sellers' financial interests. They also document a plan by high-level Education officials to leak the contents of the gainful employment regulations in advance of their public issuance.

The newly discovered documents show, among other things, that both Deputy Undersecretary James Kvaal and Budget Development Staff Director David Bergeron carried out a planned leak of the proposed gainful employment regulations to a number of outside individuals and groups in advance of the regulations' public release. This effort started with an email from hedge fund short-seller Steven Eisman to Mr. Bergeron on July 19, 2010, just days before Education released the regulations. The subject line of Mr. Eisman's email reads "I know you cannot respond" with the following text: "But just fyi. Education stocks are running because people are hearing DOE is backing down on gainful employment."[1]

The email thread of which this is a part shows this email was forwarded to a number of Education officials, landing eventually in the email box of your confidential assistant, Phil Martin, with the statement "Let's discuss."[2]

The following day Mr. Kvaal initiated a plan to call various outside groups and individuals with the apparent purpose of giving them a heads up on the upcoming regulations. The email thread shows that Mr. Kvaal and Mr. Bergeron divided the calls between them, with some key individuals and groups scheduled for contact as early as July 21, 2 days in advance of when Education issued the proposed gainful employment regulations.[3] None of the listed groups and individuals included anyone representing or acting on behalf of the for-profit education industry.

The email chain references both Mr. Eisman and Diane Schulman of The Indago Group as individuals who should receive advance notice.[4] The Indago Group is a small research company used by Mr. Eisman and his hedge fund, FrontPoint Services Fund to obtain information and entree to Washington lawmakers for Mr. Eisman.[5] Notice to either Mr. Eisman or Ms. Schulman, either directly from Education officials or indirectly from others in contact with Education officials, would have provided Mr. Eisman with reassurance about the likely market impact of the upcoming regulations. While neither is listed on the final call list for Mr. Kvaal or

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[1] A copy of this email is attached as Exhibit A.

[2] *See id.*

[3] This email chain is attached as Exhibit B.

[4] Specifically, a followup email from Mr. Bergeron on July 21 (enclosed with Exhibit B) discussing who both he and Mr. Kvaal would call, states: "Also, there's the Eisman/Schluman/et al. [sic] but Eisman is a short seller anyway you cut it and anything you tell Schulman gets to Eisman."

[5] Their professional relationship is spelled out in our January 19, 2011 letter to you.

Mr. Bergeron, other documents reveal that Mr. Eisman likely received that notice from at least one non-profit group in receipt of an advance copy of the regulations.[6]

The newly acquired documents also show that on the same day Mr. Eisman initially contacted Mr. Bergeron with an update on how education stocks were faring, Mr. Kvaal quickly located the analysis prepared by the investment banking firm Signal Hill that apparently was fueling market speculation that Education had made the proposed gainful employment regulations "more accommodating" to the for-profit education industry.[7] Signal Hill questioned Mr. Eisman's analysis, suggesting a need to "discredit the widely-circulated Eisman negative-earnings scenario," and disputing "the assumption used by most shorts, including apparently Mr. Eisman, that 'active repayment' means current within 30 days."[8] Mr. Kvaal, with no explanation, promptly characterized this assessment as "not all accurate information."[9]

These documents also bear directly on issues that have been referred to Education Inspector General Kathleen Tighe. Last November Senators Richard Burr (R–NC) and Tom A. Coburn (R–OK), who at that time were both on the Senate Committee on Health, Education, Labor, and Pensions, requested that Ms. Tighe investigate the failure of key Education negotiators for the gainful employment regulations to comply with the organizational protocols governing Education's rulemaking process. Among their concerns was evidence that "the Department may have leaked the proposed regulations to parties supporting the Administration's position and investors who stand to benefit from the failure of the proprietary school sector."[10] As this latest batch of documents reveals, Education officials at least had a coordinated plan to leak information about the gainful employment regulations to outside organizations in advance of the regulations' issuance.[11]

Together with the previously released documents discussed in our letter of January 19, 2011, this new batch of documents raises extremely troubling questions about the actions of Education officials at the highest levels of this regulatory process. Those officials knowingly allowed short-sellers to manipulate agency processes for personal gain and ignored their own responsibilities to the agency they serve. Unless these questions are answered, the public can have no faith in any aspect of Education's rulemaking process.

Very truly yours,

ANNE L. WEISMANN,
Chief Counsel.

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[6] *See* Letter to Arne Duncan from Anne L. Weismann, January 19, 2011, at pp. 6–7.

[7] *See* email from Barmak Nassirian to James Kvaal, Re Write-up, July 19, 2010 and enclosed Regulatory Update from Signal Hill, attached as Exhibit C.

[8] *See* Signal Hill Regulatory Update at p. 1.

[9] *See* email from James Kvaal to Gomez Gabriella (Education's Assistant Secretary for Legislative and Congressional Affairs), Re Write-up, July 19, 2010 (attached as Exhibit D).

[10] *See* letter from Senators Burr and Coburn to Kathleen Tighe, November 17, 2010 (attached as Exhibit E).

[11] One of the newly released documents shows that at least some in the non-profit community understood the restrictions imposed on Education officials. In a June 17, 2010 email to Education Press Secretary Justin Hamilton, Edie Irons, Communications Director for TICAS, notes: "I know that you all haven't been allowed to talk publicly about these rules yet." This email is enclosed as Exhibit F.

EXHIBIT A

Kvaal, James

From: Kvaal, James
Sent: Monday, July 19, 2010 10:09 AM
To: Martin, Phil
Subject: FW: i know you cannot respond

Importance: High

Let's discuss

From: Bergeron, David
Sent: Monday, July 19, 2010 10:06 AM
To: Kvaal, James; Yuan, Georgia
Subject: FW: i know you cannot respond
Importance: High

fyi

From: Eisman, Steven [mailto:seisman@fppartners.com]
Sent: Monday, July 19, 2010 9:45 AM
To: Bergeron, David
Subject: i know you cannot respond

But just fyi. Education stocks are running because people are hearing DOE is backing down on gainful employment.

Steven Eisman
FrontPoint Financial Services Fund
seisman@fppartners.com
917-934-1770

EXHIBIT B

Kvaal, James

From: Bergeron, David
Sent: Wednesday, July 21, 2010 2:47 PM
To: Kvaal, James
Subject: RE: group calls

Looks good. Hartle called me today from the road and asked what was going on. I said to expect a call from one of us tomorrow or Friday. He said he'll be in the office and that we should ask to have him interrupted to take the call.

From: Kvaal, James
Sent: Wednesday, July 21, 2010 2:45 PM
To: Bergeron, David
Subject: RE: group calls

How's this for a division of labor?

Today/Tomorrow morning:

David:
Baime
AASCU

James:
TICAS
Barmak
Terry
Kantrowitz

Friday:

David:
Angela Peoples, USSA
Jason DeLisle and Steve Burd, New America
Deanne Loonin, NCLC

James:
Chris Lindstrom, PIRG
David Halperin, Campus Progress
Jamie Studley, Public Allies

From: Bergeron, David
Sent: Wednesday, July 21, 2010 8:02 AM
To: Kvaal, James
Subject: RE: group calls

I'd suggest we add David Baime, ACCU & Pat Smith or Robert Moran at AASCU. Also, should probably call NASFAA on Day 2 or 3. I can make any calls you'd like. I'd prefer not to call Mark but Danny could do that one. He gets the guy. When I talk Mark, the conversation goes more like Bob & Tony.

Also, there's the Eisman/Schluman/et al but Eisman is a short seller anyway you cut it and anything you tell Schulman gets to Eisman.

From: Kvaal, James
Sent: Tuesday, July 20, 2010 11:13 PM
To: Bergeron, David
Subject: group calls

While I'm on a roll ... here is my list of people who need calls. What am I missing? Do you want to sign up for a few or how should we split up?

Day 1 (most likely to be called by reporters)
- Pauline Abernathy and Lauren Asher, TICAS
- Barmak Nassarian, AACRAO
- Terry Hartle, ACE
- Mark Kantowitz, Finaid

Day 2:
- Deanne Loonin, NCLC
- Jason DeLisle and Steve Burd, New America
- Chris Lindstrom, PIRG
- Angela Peoples, USSA
- Jamie Studley, Public Allies
- David Halperin, Campus Progress

EXHIBIT C

Kvaal, James

From:	Kvaal, James
Sent:	Monday, July 19, 2010 10:52 AM
To:	Martin, Phil
Subject:	FW: Write-up
Attachments:	Download.aspx.pdf

From: Nassirian, Barmak [mailto:barmak@aacrao.org]
Sent: Monday, July 19, 2010 10:47 AM
To: Kvaal, James
Subject: Write-up

Signal Hill

Business Services - Education Services

Industry Update

July 16, 2010

Regulatory Update -- What's Next

Trace Urdan
turdan@signalhill.com
415.364.0365

Our Call:
On Gainful Employment:

Multiple reliable sources say that the Department of Education (ED) sent a revised, metric-based Gainful Employment draft to the OMB for review around July 4, suggesting that next week could see the proposal released for public comment. We believe this new draft could include terms more accommodating than the infamous 8% language first floated by ED in January's neg-reg sessions.

We further expect, based on reports of conversations between industry and ED officials over the last few months, that the revised proposal will effectively relieve most of the BA and MA programs from the debt/income measure through an alternative measure of graduate loan repayments. We believe the intent of the rules is to target AA and non-degree programs, where students are seen as less sophisticated and less able to make informed decisions about borrowing for their education. We also think there could be a completion/placement standard as part of the final proposal.

Near-term, we see the publication of the Gainful Employment draft rule as most likely to relieve pressure on BA and MA programs and to better clarify the exposure for non-degree and AA degree providers. (We note that COCO management has publicly stated that it will offer an indication of the the likely impact of the rule on its future earnings, even before a final rule is published.) Because we believe that clarity in both cases will begin to discredit the widely-circulated Eisman negative-earnings scenario, we see the GE rule as a potentially positive catalyst.

Specifically, we believe the terms of an alternative default measure will be such that company's with two-year graduate default rates of <3.5% should meet the 90% "active repayment" criterion. We do not believe the assumption used by most shorts, including apparently Mr. Eisman, that "active repayment" means current within 30 days.

- Near-term beneficiaries: APOL, BPI, DV, EDMC, LOPE, STRA.

But near-term evidence that negative earnings are unlikely will not by itself relieve the short pressure on the sector or persuade disenchanted longs to reinvest. The more meaningful catalyst for the sector will not come, in our opinion, until we see a) an LBO; b) a balanced assessment of the industry's contribution to higher education by the GAO; or c) some positive commentary/testimony from USDOE following the rules being finalized.

We believe that private equity remains highly engaged in the sector, and possible Senate bills notwithstanding, inclined to act as soon as rules become clearer. Though some may be cowed by Harkin's rhetoric, we think others will be able to read the political environment as one in which a liberal Democrat will be hard-pressed to pass heavy new regulations that will discourage college access, industry jobs and tax receipts.

- Most likely LBO candidates: ESI, COCO, CECO, and (if John Sperling is prepared to cede control,) APOL.

Investment Analysis:

Senate HELP Hearings

We're told that the next Senate HELP committee hearing on for-profit education will be devoted to the issue of "misrepresentation" and will take place during the first week of August.

We believe the politics of rule-making, which encourages USDOE to generate support for the rules during this public comment period, as well as the politics of the mid-term elections, in which the Democrats appear to be appealing to the left in order to rally their political base, has caused the current firestorm of populist outrage in Congress as expressed by Senators Harkin, Franken, Sanders, and Durbin.

Our read is that having been placed on the defensive early with respect to the need and appropriateness of new Gainful Employment rules that effectively cap student debt levels by program, USDOE has coordinated an impressive and highly successful public relations and lobbying effort to shift the terms of the debate such that these rules now appear to the public to be a badly-needed and even moderate response to a crisis.

We read the Senate HELP hearings, as well as Senator Durbin's speech to the National Press Club, in this context as well. There is a strong professional association between Senator Harkin's top education staffer Luke Swarthout and Bob Shireman's advocacy organization, the Institute for College Access & Success. And Senator Durbin's speech likewise seems to have benefited from a host of talking points supplied directly by USDOE.

In our analysis, the mid-term elections, the publication of a GAO report and most importantly, the finalization of new rules on Nov. 1, 2010 governing the sector should result in a much more moderate tone among lawmakers. While we cannot dismiss the possibility of new legislation being introduced in the Senate to alter rules governing for-profit schools, we rate the likelihood of *passage* of any such law as very low given the source of the agitation and the tough line being taken by Republicans on new regulatory initiatives.

Important Disclosures

Analyst Certification

I, Trace Urdan, hereby certify that all of the views expressed in this research report accurately reflect my personal views about the subject securities or issuers. I also certify that no part of my compensation was, is or will be directly or indirectly related to the specific recommendations or views expressed in this research report.Signal Hill does not compensate its equity research analysts based on specific investment banking transactions. Signal Hill Equity research analysts receive compensation based on several factors, including overall profitability and revenues of the firm, which include investment banking revenues.

Applicable current disclosures for all companies covered in this report are available in written or electronic format upon request. To request copies of applicable current disclosures please write to the Signal Hill Capital Group Research Department at the following address: Signal Hill Capital Group Research Department, 300 East Lombard Street, Suite 1700, Baltimore MD 21202.

Meaning of Ratings

Signal Hill uses a three-tiered rating system defined as follows:

BUY: We expect this stock to outperform its peers over the next 12 months:

HOLD: We expect this stock to perform in line with its peers over the next 12 months:

SELL: We expect this stock to underperform its peers over the next 12 months:

July 16, 2010

Signal Hill

Distribution of Ratings/IB Services
Signal Hill

			IB Serv./Past 12 Mos.	
Rating	Count	Percent	Count	Percent
BUY	79	61.7	74	93.7
HOLD	48	37.5	39	81.2
SELL	1	0.8	1	100.0

Disclaimer

This report has been prepared using sources we deem to be reliable but we do not guarantee its accuracy and it does not purport to be complete. This report is published solely for information purposes and is not intended to be used as the primary basis for making investment decisions, which should reflect the investment objectives and financial situation of the investor. The opinions expressed herein are subject to change without notice. This report is not an offer or the solicitation of an offer to buy or sell securities. Additional information is available upon request.

EXHIBIT D

Case 1:10-cv-01712-RMC Document 8-1 Filed 02/17/11 Page 27 of 36

Kvaal, James

From: Kvaal, James
Sent: Monday, July 19, 2010 11:12 AM
To: Gomez, Gabriella
Subject: Fw: Write-up
Attachments: Download.aspx.pdf

This is not all accurate information

Sent using BlackBerry

From: Nassirian, Barmak <barmak@aacrao.org>
To: Kvaal, James
Sent: Mon Jul 19 09:47:29 2010
Subject: Write-up

EXHIBIT E

U.S. SENATE,
WASHINGTON, DC 20510,
November 17, 2010.

MS. KATHLEEN TIGHE,
Inspector General,
U.S. Department of Education,
Office of Inspector General,
Washington, DC 20202–1500.

DEAR MS. TIGHE: The work of your office is essential to protecting the efficiency and effectiveness of programs administered by the U.S. Department of Education. Independent analysis helps ensure the integrity of the Department's mission and operations. To that end, we request an investigation by your office of the events leading up to the issuance of the Department's proposed regulations regarding "gainful employment."

As you know, Section 492 of the Higher Education Act requires the Department to convene negotiated rulemaking any time it promulgates regulations affecting the Federal student aid programs. Negotiated rulemaking ensures the Department works with individuals who are experienced in implementing the Federal student aid programs and who understand the consequences of the proposed regulations.

Information has become available that raises serious concerns about whether some negotiators failed to comply with the organizational protocols governing the rulemaking process and other laws governing these proceedings. In addition, publicly available documents indicate the Department may have leaked the proposed regulations to parties supporting the Administration's position and investors who stand to benefit from the failure of the proprietary school sector. We believe an independent investigation will provide additional transparency surrounding the actions taken by Department officials and those who stand to benefit financially from the regulations.

Since November 2009, the Department of Education has been engaged in negotiations to promulgate regulations designed to improve the integrity of the Federal student aid programs. At the beginning of the rulemaking sessions, the negotiators adopted. "Organizational Protocols" that governed the proceedings. One of the agreed upon principles states: "All members and the organizations they represent shall act in good faith in all aspects of these negotiations"—("Organizational Protocols," U.S. Department of Education. Section VI.B.). Another states:

> "Contact with the media, the investment community, and other organizations outside the community of interest represented by the member will generally be limited to discussion of the overall objectives and progress of the negotiations"—("Organizational. Protocols," U.S. Department of Education. Section VI.C.).

The panel met three times between November 2009 and January 2010 and did not reach consensus on the regulations package. On June 16, 2010, the Department

released the first package of proposed regulations on "program integrity." A month later, on July 23, 2010, the Department released the second package of proposed regulations on "gainful employment."

In a July 23 Freedom of Information Act (FOIA) request, Citizens for Responsibility and Ethics in Washington (CREW) sought information pertaining to the communications occurring between Department officials and several individuals and organizations outside of the Department. In its request, CREW stated:

> Specifically the requested records will inform the public about the role of Education in the controversy over the for-profit education industry and the extent to which Education has knowingly relied on, or has been manipulated by, the views of individuals who seek to advance their financial interests in the for-profit industry by publicly criticizing certain for-profit education entities and companies.

It is our understanding that as of today, the Department has not responded to this FOIA request.

Based on information that has come to light from records released under a Florida public records request, it appears Department officials may have leaked information to outside organizations, some of whom may stand to financially benefit from the failure of the proprietary school sector. For example, an email attached to this letter demonstrates that Edie Irons, communications director for TICAS, emailed an embargoed copy of the program integrity regulations to the "Gainful Employment Group" on June 15 at 5:38 p.m. As previously noted, the regulations were not made public until June 16. If one group received an embargoed copy of these proposed regulations, other groups, including those who stand to benefit financially from the failure of the proprietary sector, may have as well.

To resolve these questions, we request an investigation by your office into the events leading up to and surrounding the issuance of the Department's proposed program integrity regulations for the period of April 2009 to the present. In this investigation we respectfully request your review of whether the organizational protocols adopted for negotiated rulemaking were followed by both non-Federal negotiators and Department staff. In addition, we ask that you review the propriety of all communications between Department employees and outside individuals and organizations to determine if the proposed regulations packages were inappropriately provided to any individuals or organizations prior to their public release.

Members of the public, including students and the institutions they attend, have a right to expect the Department of Education to promulgate regulations through a negotiated rulemaking process that is undertaken in good faith and without bias.

Thank you for your attention to this request. If you have any questions, please do not hesitate to contact our offices.

Sincerely,

RICHARD BURR,
U.S. Senator.

TOM A. COBURN, M.D.,
U.S. Senator.

EXHIBIT F

Kvaal, James

From: Pauline Abernathy [pabernathy@ticas.org]
Sent: Thursday, June 17, 2010 6:53 PM
To: Kvaal, James
Subject: FW: Error in your NPRM release

From: Hamilton, Justin [mailto:Justin.Hamilton@ed.gov]
Sent: Thursday, June 17, 2010 3:45 PM
To: Edie Irons
Cc: Lauren Asher; Pauline Abernathy
Subject: Re: Error in your NPRM release

Thanks. We'll take a look.

Justin Hamilton
Press Secretary
U.S. Department of Education
c: 202-591-6734

From: Edie Irons <EIrons@ticas.org>
To: Hamilton, Justin
Cc: Lauren Asher <LAsher@ticas.org>; Pauline Abernathy <pabernathy@ticas.org>
Sent: Thu Jun 17 17:43:13 2010
Subject: Error in your NPRM release

Hi Justin,
I left you a voicemail yesterday. Your press release on the proposed rules says, "Though current laws prohibit schools from compensating admissions recruiters based solely on success in securing student enrollment," however, the current law actually says "directly or indirectly." "Solely" is the language that was in the safe harbors, and what the for-profits want to keep! This definitely needs to be fixed online ASAP, not sure it is worth issuing a correction.

I wanted to flag another issue – not one that needs immediate correction, but something to be aware of. None of the stories from yesterday characterize the likely GE rule correctly. They say the metric will be based on an average of the student's debt-to-income ratio, or they make it sound like any student with a high debt-to-income ratio could cause a school to lose federal aid eligibility. Here are the three points we have found it is very important to make super clear (and sometimes reporters still get it wrong!):

1. More than half of a program's students would need to be beyond 8% (or whatever the metric will be).
2. 8% is just a "red flag," and there are other metrics that the school could then use to prove gainful employment. In other words, it's not the be-all-end-all, but the first of a series of tests, so schools are getting ample and flexible opportunities to show they lead to gainful employment.
3. That the rules apply to *programs*, not schools. So even if a program is negatively affected, it wouldn't necessarily put an entire school out of business.

I know that you all haven't been allowed to talk publicly about these rules yet, so I just thought it might be helpful to share what we've learned since we've been talking about this for a while!

Edie

Edie Irons
Communications Director

The Institute for College Access & Success
405 14th St. 11th floor
Oakland, CA 94612
(510) 318-7902
eirons@ticas.org
Please note the new address and phone number, we moved in April.

www.ticas.org
http://projectonstudentdebt.org

DICKSTEINSHAPIRO LLP,
WASHINGTON, DC 20006–5403,
December 17, 2010.

Hon. TOM HARKIN, *Chairman,*
Committee on Health, Education, Labor, and Pensions,
SD–644 Dirksen Senate Office Building,
Washington, DC 20510.

Hon. MIKE ENZI, *Ranking Member,*
Committee on Health, Education, Labor, and Pensions,
SH–833 Hart Senate Office Building,
Washington, DC 20510.

DEAR CHAIRMAN HARKIN AND RANKING MEMBER ENZI: I am writing on behalf of my client, Alta Colleges, Inc. and its subsidiary Westwood College, concerning several allegations that have been leveled against Westwood during the course of the Senate HELP Committee's investigation of career colleges. Career colleges play an important role in today's educational landscape, and Alta is proud to provide educational options to thousands of Americans. Alta understands the committee's interest in ensuring that Federal student assistance funds are providing value to students and taxpayers, and it has gone to great lengths to cooperate and provide documents responsive to the committee's request, at a cost of several hundred thousand dollars.

Westwood has been the subject of several false and damaging accusations. While we do not wish to speculate on the motivations of the accusers, we can demonstrate that their allegations are factually baseless. Perhaps more troubling, the GAO recently amended its testimony from the August 4, 2010 hearing before your committee; a revision to one of the factual scenarios concerning Westwood shows that there was at least one material omission in the original scenario that has unfairly tarnished Westwood's reputation with the committee and prospective students.

Allegations of Joshua Pruyn

On August 4, 2010, Joshua Pruyn, a former Westwood admissions representative, testified before the committee in an investigatory hearing entitled, "For-Profit Schools: The Student Recruitment Experience." In a portion of his testimony, Mr. Pruyn alleged that representatives at Westwood attempted to pressure a student, who had recently been called up from the Army Reserves to active duty, to stay at Westwood in order to get the student past his fourteenth day of attendance. This student contacted Mr. Pruyn in order to inform him that he had been called to active duty status and that his duties as a drill instructor would preclude him from continuing school while on active duty. Mr. Pruyn further testified that his director and assistant director both called the student and "pushed him to stay enrolled." According to Mr. Pruyn, he was "disgusted by such a flagrant disregard for the student. . . ."

Mr. Pruyn's assertion that the student was pressured to remain enrolled is fatally undermined by the physical evidence, as well as the student's own recollection of the events. Westwood was able to identify the student at issue and examine the evidence related to this claim.[1] Contrary to Mr. Pruyn's testimony, there is no evidence that Mr. Pruyn's supervisors spoke to the student after the term began. Westwood College Online uses a system called CosmoCom, which allows for the recording and retrieval of inbound and outbound calls. Call records reflect that Mr. Pruyn spoke with the student for approximately 55 minutes on March 31, 2008 concerning his request to withdraw. However, records do not reflect that the admissions director or assistant director spoke to the student after this point, which was confirmed in a call on April 1, 2008, in which Mr. Pruyn asked the student if the director had called him regarding his decision to withdraw, and the student responded that she had not. When contacted recently, the student remembered Mr. Pruyn asking a lot of questions about his reasons for leaving Westwood, but that the questions did not seem aggressive. He also did not remember speaking with anyone else concerning his decision to withdraw from Westwood. The student apparently felt that he was being treated fairly, because he told a Westwood employee during a brief call on

[1] Mr. Pruyn referred to the student as "Jeffrey" in his testimony. We referenced the list of students enrolled by Mr. Pruyn during his tenure and found only one student with the first name of Jeffrey enrolled by Mr. Pruyn, and this individual cancelled his enrollment after being called up to active duty. Only three students enrolled by Mr. Pruyn had military experience; of the three, only the one named Jeffrey withdrew after the term began, which is the factual scenario described by Mr. Pruyn.

March 31, 2008, prior to speaking with Mr. Pruyn, that Westwood would be the first college he considered when he was able to enroll in school again.

During the hearing, Mr. Pruyn testified that "[f]ourteen was the magic number," because once a student attended class for 14 days after the start of a term, the school was allowed to keep any financial aid it received as a result of enrolling that student. However, Mr. Pruyn fundamentally misconstrues the significance of a student being enrolled for 14 days. During a student's first 14 days of school, Westwood staff will monitor a student's attendance and academic progress to determine if a student is likely to succeed at the school. If Westwood determines that a student is not committed or is not likely to succeed academically, his/her enrollment is cancelled and no tuition is charged to the student. Westwood starts charging tuition to a new student after 14 days. This internal Westwood practice does not impact access to title IV funds: Westwood cannot draw down title IV loan funds for a first-time student until the student has attended school for at least 30 days. In addition, the return of Federal funds requirement results in the bulk of student aid funds being returned if a student withdraws prior to the 60 percent point in time of the term, so even if student aid is disbursed to a student after 14 days, there would be little financial benefit to Westwood. In this case, Westwood charged the student no tuition, nor were any Federal financial aid funds related to this student's enrollment disbursed.

As detailed above, Mr. Pruyn's damaging allegations were factually and materially incorrect, if not deliberately false, and his ignorance concerning Westwood's 14-day conditional enrollment period created the erroneous impression that Westwood had a financial incentive to prevent this student from withdrawing prior to 14 days of attendance. We have attempted to contact Mr. Pruyn to discuss some of these allegations, but he has declined to be interviewed. In light of this evidence, we respectfully request that you strike Mr. Pruyn's testimony from the hearing record and send him a written request to clarify his remarks.

Allegations of Michelle L. Zuver

During a forum on August 31, 2010, Senator Durbin invited several witnesses to speak, including Michelle L. Zuver, a 2008 criminal justice graduate from Westwood College's DuPage campus in the Chicago, IL area. Ms. Zuver stated that she (1) was not adequately informed of Westwood's accreditation status; (2) was told the cost of the program would be $53,000, yet upon graduation she had $86,000 in debt; (3) is not able to obtain employment using her Westwood degree; and (4) had a poor initial experience with Westwood. In an impromptu press conference at the end of the forum, Senator Durbin gave a statement, with Ms. Zuver at his side, in which he used Ms. Zuver's experience as a basis to opine that taxpayer money is being wasted on private-sector colleges. Ms. Zuver has also appeared on the *CBS Evening News*.

Documentary evidence clearly shows that Ms. Zuver's allegations are baseless. Although she claimed that no one informed her until 2007 that her program was not regionally accredited, Ms. Zuver initialed a document when she re-enrolled in 2006 that specifically explained that "Westwood College is nationally accredited, *not regionally accredited*, which could have an impact on opportunities with some Chicago and surrounding area employers, including the city of Chicago" (emphasis added). Because of the school's effort to ensure that students are fully informed on this point, the particular sentence noted above must specifically be initialed. Ms. Zuver did just that on July 31, 2006. Westwood's course catalog reflected the same information, and faculty and staff emphasized this point during the time she attended the college. Based largely on this information, in January 2009 an independent arbitrator, with the American Arbitration Association dismissed a legal action brought by Ms. Zuver containing an identical allegation, finding that "the matters allegedly misrepresented or omitted were in fact sufficiently disclosed" to her.

When Ms. Zuver initially enrolled in 2004, her enrollment agreement stated the cost of the program would be $56,000. Ms. Zuver quit college and re-enrolled in 2006. When she re-enrolled the cost of the program was indeed higher ($61,600) due to tuition increases that had occurred during the ensuing period of time. The higher cost was reflected on the enrollment agreement Ms. Zuver executed when she re-enrolled. The actual total of tuition and fee charges paid to Westwood was $58,735, reflecting the fact that Ms. Zuver finished her degree in 2008 one term early (14 terms rather than 15). The reason her debt became so high is that when she re-enrolled she took out private student loans, in excess of the cost of attendance, for living expenses. Westwood does not encourage this practice, but that decision is ultimately up to the individual student. The loans Ms. Zuver incurred while attending Westwood were significantly less than the $86,000 that she claimed.

Our records show that Westwood made numerous and substantial attempts to provide employment assistance to Ms. Zuver. Career counselors sent her job leads on 17 occasions; provided access to a resume workshop, which Ms. Zuver attended; and provided information about an upcoming job fair. However, on at least three occasions in 2008, Ms. Zuver stated that she did not intend to seek employment in the field of criminal justice. In February 2009 she expressed interest in finding employment in this field in Virginia, and the College provided her numerous leads in Virginia.

Finally, by her own account, Ms. Zuver's initial experience at Westwood was extremely positive. Despite indicating in Senator Durbin's forum that her first semester with Westwood was a negative experience, when she left school in 2004, Ms. Zuver sent a letter describing the faculty as "amazing," "knowledgeable, experienced, and understanding" (*see* attachment). She stated that the facility was "extraordinary," she had "absolutely no complaints," and her overall experience was "immensely magnificent." It is also telling that Ms. Zuver re-enrolled in Westwood to complete her education.

GAO Testimony

The August 4, 2010 written testimony of Gregory Kutz, Managing Director, GAO Office of Forensic Audits and Special Investigations, contains an appendix listing the detailed results of GAO's undercover investigation. This testimony was subsequently reissued on November 30, 2010 in order to "clarify and add more precise wording" to, among other things, some of the examples cited in the Appendix. With respect to at least one of the examples pertaining to Westwood, however, the "clarifications" are not semantic or stylistic; rather, they are extremely significant and cast doubt upon the credibility of the GAO, supposedly an independent fact-finder. We have attempted to obtain copies of the GAO tapes in order to confirm the content and context of each of the allegations related to Westwood, but have so far been unable to obtain access.

The initial version of the GAO testimony cited the following "scenario," in relevant part, as evidence of deceptive/questionable behavior:

• Admissions representative said the program would cost between $50,000 and $75,000 instead of providing a specific number.

By contrast, the revised scenario adds a critical piece of information, as follows:

• Admissions representative said the program would cost between $50,000 and $75,000 instead of providing a specific number. *It was not until the admissions representative later brought the student to financial aid that specific costs of attendance were provided*. (emphasis added)

The fact that specific costs were provided to the prospective student/undercover investigator prior to the conclusion of the initial visit to the College is a material omission from the first version of the testimony. The admissions representative was disciplined for this incident based upon these allegations, including a formal reprimand in his permanent HR file, which may have been unwarranted had the entire set of facts been properly disclosed. It is difficult to understand how such critical mitigating facts could have been left out of this testimony and why it took nearly 4 months to correct, particularly since we expressed concern over the factual basis of this particular scenario during a meeting with your staff on August 27, 2010. Indeed, rather than revising this scenario, it should rightfully be removed from the GAO testimony entirely.

We request that you take the information in this letter into account as the committee proceeds with its investigation. While the committee's interest in career colleges is understandable in light of the amount of Federal funds used by students who choose to attend institutions in this sector of higher education, investigations should be based on solid factual evidence and not influenced by baseless, exaggerated, or biased allegations. The allegations described above have unfairly smeared Westwood's reputation with the committee, accrediting bodies, and the public, at significant financial and human cost. In the event that the committee contemplates using any other claims concerning student experiences, Westwood's practices, or the conduct of its employees in its reports or hearings, we would appreciate the opportunity to discuss such claims with you or your staff before public disclosure to ensure that they are portrayed accurately and in context.

Sincerely,

MARK R. PAOLETTA,
paolettam@dicksteinshapiro.com.

ATTACHMENT

WEDNESDAY, DECEMBER 8, 2004.

TO WHOM IT MAY CONCERN: I would like to thank Westwood College for the stay here in the Dupage campus. I am almost done successfully completing two terms in this wholesome facility. I am now going to cease my education here at the end of this term. I have many personal reasons for my failure to continue my education here at Westwood. There is nothing that this facility or its staff did that influenced my decision. I am leaving for other personal reasons that will take my life in a different direction then to continue my education. I am very grateful for the experience I have had here for the last 20 weeks. The staff here is amazing. They are very knowledgeable, experienced, and understanding. I want to thank all of my instructors personally for the immensely magnificent experience I encountered here. I would like to thank all the support staff in student services, the bookstore, and the program directors for steering my education in the right direction. I will leave this facility with 30 credit hours and it will more than likely be the best hours I will receive in my pursuit to continue my education in the future. This extraordinary facility was very well maintained and clean. There was absolutely no complaints about the building or the staff that I had throughout my entire career here at Westwood. I would like to say goodbye to all here at Westwood Dupage and say I hope the best for all of you. Thank you once again for the experience. It will last me a lifetime.

Sincerely,

MICHELLE ZUVER.

WILMERHALE,
WASHINGTON, DC 20006,
February 10, 2011.

BETH STEIN, ESQ.,
Chief Investigative Counsel,
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510–6300.

Re: Bridgepoint Education

DEAR BETH: I am in receipt of Daniel Smith's letter dated February 7, 2011. Mr. Smith's letter does not accurately represent our ongoing correspondence and conversations. This concerns us and we will take this opportunity to respond.

As you know, the Department of Education Office of Inspector General ("OIG") has recently issued its audit report entitled "Ashford University's Administration of the Title IV, Higher Education Act Programs." Those programs are administered by the Office of Federal Student Assistance ("FSA"). That Office now has jurisdiction over the completion of the audit process, and is empowered to take remedial action if it finds errors in the way those programs were administered. The FSA must determine whether facts exist that would justify any such actions, which may include further fact gathering, assessment of repayment obligations, penalties, reformation of processes, or conceivably, proceedings to fine, limit, suspend or terminate Ashford University from participation in such programs. Ashford University is scheduled to submit a response to the OIG report by late February. The regulatory process then provides for negotiation between FSA and the University, issuance of a Final Audit Determination Letter, a formal administrative adjudication if necessary and then Federal court proceedings if necessary. Ashford University has informed FSA that it will reply to the OIG report and has already asked for a meeting to discuss that report and the University's response.

As we have discussed, in order to avoid compromising the integrity of the FSA proceedings, Bridgepoint Education ("Bridgepoint") is simply not in a position to make witnesses available or agree to testify in a public hearing prior to submitting its response to FSA and having a meaningful opportunity to discuss scope and resolution of this matter with the FSA. Ashford University cannot make individuals available or respond publicly to questions concerning a matter in which it is engaged in non-public discussions and negotiations with FSA. To do otherwise would interfere with Ashford University's due process and its ability to protect itself and its students' interests in the proceedings before the Department of Education. As to which individuals you might interview before a hearing, after we have had a meaningful opportunity to discuss the scope and resolution of this matter with FSA we could discuss the details of a hearing, but are not in such a position at this time.

While our ability to appear is predicated on the progress of FSA's inquiry, Bridgepoint also notes once again that its practices are within industry norms and that the OIG did not find it had violated incentive compensation regulations. Ashford University was not one of the 15 institutions criticized by the GAO report on the for-profit sector. Indeed, in the Chairman's February 7 remarks on the Senate floor, he singled out four of our country's publicly traded, post-secondary education providers for criticism. Three of them were criticized by the Chairman for what he considered to be improper recruiting practices. Ashford University was not among that group. Rather, Ashford University was criticized for (1) having originally been a small, religiously affiliated school that was acquired by a for-profit company, under whose ownership the school has experienced substantial growth, mostly in online offerings, and (2) having a 21 percent 3-year student loan default (well below the 30 percent regulatory requirement and the reported 25 percent industry average). It is difficult to understand why having acquired, and likely saved from closure, a small liberal arts college, should subject Ashford University to being singled out during the pendency of a regulatory proceeding for a possible solo appearance at a public hearing when it has statutorily acceptable and below average default rates.

We will provide the requested spreadsheet related to request four under separate cover. We are reviewing the expanded set of document requests that you posed to us on January 25, and will respond to you about those separately.

Bridgepoint appreciates your understanding of our due process rights and the need to engage with the FSA without prejudice.

Sincerely,

JAY P. URWITZ.

U.S. SENATE,
COMMITTEE ON HELP, EDUCATION,
LABOR, AND PENSIONS,
WASHINGTON, DC 20510–6300,
March 1, 2011.

ANDREW S. CLARK,
Chief Executive Officer,
Bridgepoint Education, Inc.,
San Diego, CA 92128.

DEAR MR. CLARK: On March 10, 2011, the Senate HELP Committee will hold a hearing titled, "Bridgepoint Education, Inc.: A Case Study in For-Profit Education." Notice of this hearing, together with a request for your testimony, was provided to your attorneys in mid-January 2011. At that time committee staff also requested to schedule bi-partisan staff interviews with 6–7 additional Bridgepoint executives and employees in advance of the hearing.

Also in January, the Department of Education Inspector General issued the results of a final audit report making six findings with regard to Bridgepoint-owned Ashford University's handling of title IV financial aid dollars. At that time, your attorneys insisted that the company had serious concerns about appearing at a hearing before the completion of the final audit determination by the Department of Education, a process that averages 12 to 18 months. Your attorneys later insisted that Bridgepoint would, of course, not expect to complete the process but would cooperate with the committee after the company had the opportunity to submit comments on the audit to the Department of Education, and to meet with the appropriate Department officials. While neither the Department of Education nor the Inspector General had any concern with regard to the hearing or your participation, purely as a matter of courtesy, the committee agreed to postpone the hearing from February 17 to March 10, on the condition that you would provide testimony at the later hearing, and that the company would also make the requested employees and executives available for interview.

Notwithstanding this courtesy, Bridgepoint has continued to refuse to make any of the relevant employees available for interviews. In addition, on February 23, 2011, Bridgepoint submitted documents to the Department of Education pursuant to the final audit determination process. On that day your attorneys also provided assurances to the committee that Bridgepoint was continuing to followup on its request to immediately schedule a meeting with Department officials. However, on February 24 Bridgepoint attorneys separately told the Department: "[w]e would still like to have a call early on in the resolution process, as discussed in our earlier email exchange, and plan to call in 2 weeks to see if we can arrange a time that is convenient for all." Thus while providing assurances to the HELP Committee

through one attorney, your company through a second set of attorneys was simultaneously seeking a delay that would provide a colorable excuse for your failure to appear and testify on March 10.

This letter is to inform you that the March 10, 2011 hearing will proceed as planned. You will receive a formal invitation to appear and provide testimony in the upcoming days. Should you choose not to appear, leaving your company without the ability to respond to issues raised in the hearing, that is your choice. However, you should be aware that it will be made clear at the hearing that your failure to appear is based on nothing other than your own apparent unwillingness to testify regarding how a company that receives over 86 percent of its revenues from the Federal Government saw a 1-year increase in profit from $81 to $216 million, but also has student withdrawal rates of at least 65 to 75 percent.

We look forward to a robust hearing and expect that you will see the wisdom of joining the committee in the exercise of its oversight authority.

Sincerely,

DANIEL E. SMITH,
Staff Director.

BRIDGEPOINTEDUCATION,
SAN DIEGO, CA 92128–8104,
March 7, 2011.

Hon. TOM HARKIN, *Chairman,*
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510–6300.

Re: Invitation to Testify at March 10, 2011 Hearing

DEAR CHAIRMAN HARKIN: Thank you for your invitation of March 1, 2011 to testify at a hearing of the U.S. Senate Committee on Health, Education, Labor, and Pensions. Bridgepoint Education makes an important contribution to the education of the people of this country, especially those who have difficulty availing themselves of education elsewhere. In that spirit, we have extensively cooperated with your staff, providing a wide range of documents about our operations, inviting and hosting your staff at our Ashford University, Clinton, IA campus, and answering specific questions your team has generated.

As we explained to both Ms. Stein on February 10, 2011, and Mr. Smith on March 7, 2011, Bridgepoint Education will not be able to testify on March 10, 2011 (copies included.) We are currently in proceedings before the Department of Education's Office of Federal Student Aid ("FSA"). FSA now has jurisdiction over the completion of the review process for a report by the Office of Inspector General. The FSA must determine whether facts exist that would justify any remediation, and must interpret the statute and regulation. Those proceedings have not advanced to the point where we have had a meaningful opportunity to discuss scope and resolution of the matter. Thus, Ashford University cannot respond publicly to questions which will be the subject of non-public discussions and negotiations with FSA.

I am confident that you will understand our decision at this time. Thank you for your appreciation of this important process.

Respectfully submitted,

ANDREW CLARK,
President and CEO.

WILMERHALE,
WASHINGTON, DC 20006,
March 7, 2011.

DANIEL E. SMITH,
Staff Director,
Committee on Health, Education, Labor, and Pensions,
U.S. Senate,
Washington, DC 20510–6300.

Re: March 1, 2011 Letter to Bridgepoint Education

DEAR MR. SMITH: We have received your letter of March 1, 2011, addressed to Andrew Clark, Chief Executive Officer of Bridgepoint Education ("Bridgepoint"), and are responding on Mr. Clark's behalf. The letter does not accurately represent the conversations and correspondence among Bridgepoint, HELP Committee staff, and the Office of Federal Student Aid. Bridgepoint has sought to cooperate throughout its discussions with committee staff and has repeatedly indicated its willingness to have a representative of Bridgepoint or Ashford University testify before the committee at an appropriate time. However, Bridgepoint has also indicated certain limitations as to the timing of such testimony. Bridgepoint takes this opportunity to reiterate its efforts to cooperate with the committee and the circumstances under which a Bridgepoint or Ashford University representative could testify.

As you know, the Department of Education Office of Inspector General ("OIG") issued its audit report entitled "Ashford University's Administration of the Title IV, Higher Education Act Programs" on January 21. In accordance with standard procedure, the Department asked for Ashford University's comments on the audit report, and Ashford University submitted comments to the Department's Office of Federal Student Aid ("FSA") on February 23, 2011.

FSA now has jurisdiction over the completion of the review process. The FSA must determine whether facts exist that would justify any remediation, and must interpret the statute and regulation. Following Ashford University's submission, the regulatory process allows for discussions between FSA and Ashford University, issuance of a Final Audit Determination Letter, a formal administrative adjudication if necessary, and Federal court proceedings if necessary.

On Monday, January 24, the first business day after the OIG issued its audit report the committee staff informed Bridgepoint that it would like a representative to appear at a hearing that would focus on some of the practices that were discussed in the audit report. That same day, the committee issued a press release that inaccurately described the OIG findings. Since then Bridgepoint has had several conversations with committee staff. Through these conversations, Bridgepoint has consistently explained that it is not in a position to testify in a public hearing prior to having a meaningful opportunity to discuss the scope and resolution of this matter with the FSA. Ashford University cannot make individuals available or respond publicly to questions concerning a matter in which it is potentially exposed to significant adverse action by FSA, anticipates being engaged in non-public exchanges with FSA, and is yet to have a substantive exchange with FSA as to the scope and resolution of the matter. To do otherwise would interfere with Ashford University's due process and its ability to protect its students' interests and the institution in the proceedings before the Department of Education.

The second paragraph of the letter misstates what the committee has been told about the circumstances under which Bridgepoint could testify. Bridgepoint has never said that it would not voluntarily appear at a hearing "before the completion of the final audit determination." Nor has it ever stated that it would be able to appear directly "after the company had the opportunity to submit comments on the audit to the Department of Education, and to meet with the appropriate Department officials." Instead Bridgepoint clearly reiterated, in writing, the circumstances regarding its appearance in the letter of February 10 sent to the committee's Chief Investigative Counsel, which is attached. It stated: "Bridgepoint Education ("Bridgepoint") is simply not in a position to make witnesses available or agree to testify in a public hearing prior to submitting its response to FSA and having a meaningful opportunity to discuss scope and resolution of this matter with the FSA" (February 10, 2011 letter to Beth Stein from Jay Urwitz). Indeed, in that letter Bridgepoint further stated that the assertion about our alleged agreement to testify on March 10 "does not accurately represent our ongoing correspondence and conversations."

These are not random conditions, but rather stem from the real due process concerns that have been noted—namely, that Bridgepoint or Ashford University could

not characterize the facts or the law until they had a meaningful and substantive dialogue with the body that is able to determine whether to seek remediation.

The characterization of Bridgepoint's efforts as trying to slow the FSA process is unfounded, and the quotations from the correspondence with FSA were taken completely out of context. That context, provided in the attached letters to FSA and from FSA, shows that Ashford University first requested a meeting with FSA on January 31, 2011, promptly after receiving the OIG Report. The correspondence also shows that Ashford suggested to FSA that it was available to talk as soon as is FSA. In two separate letters, Ashford University asked for a conference call; twice FSA responded by saying it would review the documents and call Ashford University when and if necessary ("[U]pon receipt of the institution's formal response to the audit . . . if additional information is needed for the final audit determination, FSA will contact the University."). In the February 24 letter, Ashford University reiterated its willingness to meet and then suggested that, in any case, counsel would call in 2 weeks.

On March 4, an initial telephone conference took place between FSA officials and representatives of Ashford. However, on March 3, the representatives were informed by FSA that it would not be in a position to engage in meaningful discussions. Specifically, an FSA official told the representatives that FSA would not be in a position to provide conclusions and that the purpose of the call was for Ashford to "bring to FSA's attention anything that you may wish." This, in fact, was the nature of the call. FSA confirmed that its review was at a preliminary stage and that it was not yet in a position to engage in a substantive discussion about the matters under review or their resolution.

The assertion that "neither the Department of Education nor the Inspector General had any concern with regard" to Bridgepoint's participation in the hearing is irrelevant. Neither the accuser (the OIG) nor the adjudicator (FSA, at least initially) have to be concerned about Bridgepoint not exercising its rights.

Since the committee began its industry-wide inquiry examining 30 companies providing post-secondary education in August of last year, Bridgepoint has cooperated. Within 2 business days of receiving your request, Bridgepoint issued a comprehensive document preservation notice to all relevant employees. Bridgepoint immediately began collecting documents and made its first production in response to your 39-item request on August 31, 2010, after we met with the committee staff on August 26. Bridgepoint made seven additional productions and completed its response in early December.

All of this was a very significant undertaking that was accomplished quite quickly, based on the committee's time demands. In total, Bridgepoint produced tens of thousands of pages in response to your requests. Further, Bridgepoint has responded to multiple requests from the committee staff for specific information, some under very short timetables.

In addition to the productions listed above, Bridgepoint went one step further by inviting your staff to visit Ashford University's campus in Clinton, IA on October 14, 2010. They had the opportunity to meet students, staff, and administration. They also were provided a demonstration of an online course, visited a campus class in session, and toured the campus.

It is difficult to understand why having acquired, and likely saved from closure, a small liberal arts university in Iowa should subject Ashford University to being singled out for a solo appearance at a public hearing. This is especially difficult to rationalize when Ashford University has been cooperative with the committee and has always maintained acceptable outcomes by all regulatory measures.

Ashford University is dedicated to providing access to higher education to groups who have traditionally been excluded from its benefits. We have dedicated ourselves to doing so in a way that is affordable to them. Our mix of students—71 percent of our online students are women; half identify themselves as minorities; and, at an average age of 35, they are attempting to better their situation even past the time when traditional students do so—face more challenges in undertaking their higher education, and we are proud to offer them this opportunity.

Finally, Bridgepoint is troubled by the apparent involvement of Senate staff in Ashford University's ongoing agency proceeding, as evidenced by the excerpt from Ashford University's letter to the FSA, which is not a public document, that was quoted in your letter. Interference in an agency adjudication by a third party, even Congress, "may undermine the integrity of the ensuing decision," as the U.S. Court of Appeals for the D.C. Circuit has held. *American Public Gas Ass'n* v. *Federal Power Com'n,* 567 F.2d 1016, 1069 (D.C. Cir. 1977) ("Congressional intervention which occurs during the still pending decisional process of an agency endangers, and may undermine, the integrity of the ensuing decision, which Congress has required be made by an impartial agency charged with responsibility for resolving controver-

sies within its jurisdiction. Congress as well as the courts has responsibility to protect the decisional integrity of such an agency."); *see also* Morton Rosenberg and Jack H. Maskell, *Congressional Intervention in the Administrative Process: Legal and Ethical Considerations*, CRS Report for Congress, Sept. 25, 2003, at 4 ("[I]nsulation of the decisionmaker from political influence through public pressure or unrevealed ex parte contacts has been deemed justified by basic notions of due process to the parties involved" in agency adjudications, whether formal or informal."). Thus, your involvement in that process deepens Bridgepoint's concerns about receiving adequate due process in the context of the FSA's proceeding and reinforces our belief that now is not the appropriate time to testify.

Bridgepoint appreciates the opportunity to correct the record in this matter.

Sincerely,

JAY P. URWITZ.

[Whereupon, at 12:40 p.m., the hearing was adjourned.]

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