

August 12, 2010

The Honorable Arne Duncan  
Secretary of Education  
U.S. Department of Education  
c/o Jessica Finkel  
1990 K Street, NW, Room 8031  
Washington, DC 20006-8502

Re: Docket ID ED-2010-OPE-0012

Dear Secretary Duncan:

As advocates for students, consumers, higher education, civil rights and college access, we thank you for proposing a thoughtful and much-needed definition of gainful employment in time to go into effect next year. Federal law requires career education programs that receive federal student aid to “prepare students for gainful employment in a recognized occupation.” The Department’s proposal would finally enforce this statutory requirement. Covered programs include most for-profit programs and all public and non-profit programs of less than two years. The urgent need to protect both students and taxpayers from career education programs that over-promise and under-deliver is well documented by the July 26, 2010 Notice of Proposed Rule Making (NPRM).

Everyone loses when taxpayers subsidize programs that routinely saddle students with debts they cannot repay. However, students of color are particularly vulnerable because they disproportionately attend for-profit programs, accounting for at least half of all students enrolled. As the NPRM notes, the career education industry’s own research indicates its graduates default on federal student loans at twice the rate of other sectors, even after controlling for demographic differences. When these programs do not prepare students for jobs that enable them to repay their loans, the resulting debt can literally haunt them for the rest of their lives, frequently subjecting them to harassment by collection agencies and ruining their credit, making it difficult to buy a car or a home and impossible to get federal grants or loans to return to school in the future.

While many of the organizations signing this letter will be submitting additional and more detailed public comments, we write now to immediately suggest four ways in which the proposed regulations should be strengthened to provide meaningful protection for students and taxpayers beginning next year.

**1. The Rule Needs to Set Higher Standards.** The proposed rule would allow programs to continue to profit from federal student aid when a majority of their former students with loans can’t afford to pay down their loan principal. This standard is simply too low to demonstrate that programs are adequately preparing students for gainful employment. As the NPRM documents, thousands of career education programs at for-profit, non-

profit and public schools have much higher repayment rates, and all schools should be held to a much higher standard. Otherwise schools will continue to race to the bottom, leaving far too many students worse off than before they enrolled.

**2. Restricted Programs Must Improve to Remain Eligible for Federal Aid.** Under the proposed rule, the NPRM estimates that seven percent of career education programs have such low repayment rates and high median debt-to-income levels that their eligibility for federal student aid would be restricted. However, these programs could continue to enroll the same number of Title IV aid recipients, year after year, without improving at all. Programs with high borrowing rates, low repayment rates and high debt burdens should be required to rapidly improve in order to remain eligible for federal aid. Taxpayers should not be forced to subsidize low performance and high profits, and certainly not indefinitely. Restricted status must be time-limited. This is particularly important since the proposed rule allows restricted programs to enroll unlimited numbers of students receiving GI Bill and other federal non-Title IV student aid.

**3. Families with Children Need Equal Protection.** The Department specifically asked for comment on the proposed median-debt-to-discretionary-income thresholds. The concept of discretionary income recognizes that borrowers with higher incomes can afford to devote a larger share of their income to loan repayment. However, it has to account for family size, and the proposed regulation does not. According to the Baum-Schwartz definition of discretionary income cited in the NPRM, a family of one earning \$33,000 a year has \$16,800 in discretionary income, but a family of four with the same income *has no discretionary income*. Half of all undergraduates at for-profits (48%) have dependent children, and more than one in four (28%) have at least two children. Therefore, if the rule is to include a discretionary-income threshold, it must either adjust for family size to reflect the real debt burden on families with children, or the discretionary-income threshold must be limited to programs whose former students have a very high average income to ensure they have sufficient discretionary income regardless of their family size.

**4. Students Need Protection Beginning Next Year.** While the proposed regulation would take effect in July 2011, it would not begin to provide any protections until July 2012—two years from now—and it would not be fully effective until July 2013. Students and taxpayers simply cannot afford to wait so long for at least some protection from exploitation. In the next year alone, taxpayers will underwrite more than \$30 billion in federal student loans and provide billions more in Pell Grants to students attending programs required to prepare them for gainful employment. Given that the Department's proposed framework cannot be in place before 2012, we urge you to use available data in 2011 to identify high-risk programs and require that they provide a prominent warning to prospective and current students that they may have difficulty repaying their loans. While such a warning is no substitute for the proposed definition of gainful employment, it would at least help inform consumer decisions in 2011.

Thank you considering our views. We believe these four changes are essential, and we applaud the Administration for taking long overdue steps to enforce the law requiring career education programs to prepare students for gainful employment.

Sincerely,

American Association of Collegiate Registrars and Admissions Officers  
American Association of University Professors  
American Federation of State, County, and Municipal Employees Local 3299  
American Federation of Teachers  
American Medical Student Association  
California Coalition for Civil Rights  
Campaign for College Affordability  
Campus Progress Action  
Consumer Action  
Consumer Federation of America  
Consumer Federation of California  
Crittenton Women's Union  
Dēmos: A Network for Ideas & Action  
Florida State College at Jacksonville  
The Greenlining Institute  
The Institute for College Access & Success and its Project on Student Debt  
National Center for Public Policy and Higher Education  
National Consumer Law Center (on behalf of its low-income clients)  
National Consumers League  
National Council of La Raza  
National Education Association  
Neighborhood Economic Development Advocacy Project  
NYPIRG  
Public Advocates Inc.  
Student Senate for California Community Colleges  
U.S. PIRG  
United States Student Association  
Young Invincibles