April 14, 2010

TO: **Interested Parties**

FROM: **Harris N. Miller**
CEO and President

SUBJECT: **Department of Education Proposed Gainful Employment Regulation is Based on a False Premise**

The Department of Education's Gainful Employment proposal is meant, according to the explanation we have heard from its advocates, to eliminate programs offered by "bad actors" that create debt loads for students that are unreasonable/unacceptable given the students' likely earnings in the occupations they will pursue after completing their education.

The implicit premise of such an assertion is that programs that demonstrate a high debt-to-earnings ratio will also lead to students in those programs not being able to afford their loan repayments after graduation – that there is a positive correlation between high debt/income ratios and students' inability to repay their student loans. The Department has produced no data to support that premise, but accepted it as a given. That premise then defines the problem that the Department wants to solve – students need to be prevented from "borrowing too much relative to their likely earnings" – and leads to their conclusion that by setting a specific debt/earnings ratio above which programs cannot be offered, the students who are assuming the debt and the taxpayers who finance the students' education are being "protected."

The premise is false. In fact, programs with a higher debt to income ratio have **lower** loan default rates among their graduates than programs with a lower debt to income ratio – there is an inverse correlation between higher debt/income ratios and loan defaults. This conclusion is based on an analysis of 10,000 programs involving over 600,000 students done by Dr. Jonathan Guryan of the University of Chicago and his colleagues at Charles River Associates.

The focus of any problems that exist should be on the student, not the program. Does this finding mean every student makes a fully informed decision when he or she enrolls in a program that has costs that require him/her to borrow significant amounts of money? Maybe, maybe not. But it does mean that a sledge hammer solution, as offered by the Department that eliminates entire valuable programs in areas such as nursing, education, and information technology because of a debt/income ratio metric, is the wrong way to go.

Instead, the Department should require more complete disclosure by schools to prospective students about the costs of their programs, the jobs they are likely to obtain with the education they are acquiring, some range of income in those positions, and the payments they will be required to make in taking out those loans. CCA has developed and presented to Department officials such a disclosure proposal.

Comprehensive Study Shows Sweeping Impacts

To assess the full impact of the proposed ED regulation on the career college sector, CCA contracted with an independent, third party – Professor Jonathan Guryan, Associate Professor of Economics, University of Chicago Booth School of Business, working in consultation with Matthew Thompson, Vice President of Charles River Associates – to collect pertinent data from our members and to apply the Department's formula. The Guryan-CRA study is based on data representing 600,000 students in 45 states. We also used existing analyses conducted by other independent parties, including Mark Kantrowitz of Finaid.org. A high level summary of findings indicates:

- Over 300,000 Students Displaced
- Upwards of 2,000 Programs Eliminated
- 40 Percent of Students in Two- and Four-Year Programs Harmed
- 14 Percent of Health Professional and Related Clinical Sciences Programs, including Nursing would Fail
- 19 Percent of Computer and Information Sciences and Support Services Programs would Fail

Rather than impacting a small number of high cost programs, which is what the Department asserted would happen during the negotiated rulemaking sessions in January, the research demonstrates that the proposal stands to harm a large population of students across many fields of study and runs contrary to the Administration's efforts to create more capacity in higher education.

Does the Proposal Solve the Problem?

While there may be other subjective tests, the clearest manifestation of high debt to income is the students' inability to repay the debt and hence be in default. If this is the case then it is reasonable to assume that students in programs that fail the debt-to-income test would have a higher default rate than students in programs that pass the debt-to-income test.

The analysis of the CCA members (henceforth to be referred to as the Guryan-CRA study) finds the opposite to be true. In fact, there is an inverse relationship between the debt-to-income ratio and cohort default rate. Impacted programs, those that fail the debt-to-income ratio in the Department's proposal, have a

lower cohort default rate than programs that are not impacted, 6.8 percent compared to 12.2 percent.

Because the Department of Education's debt-to-income formula applies only to graduates, an analysis of the graduate debt-to-income ratio and cohort default rate was also performed. The finding again was of an inverse relationship between programs that fail the debt-to income ratio test and the cohort default rate. The cohort default rate of programs that fail the test is half (3.4 percent) that of the default rate of programs that are not impacted (6.8 percent).

Do Other Third Party Studies Provide Relevant Information?

It should not be surprising that the default rate of students who graduate is lower, regardless of program attended, than students who drop out. Mark Kantrowitz's analysis of the Beginning Postsecondary Students Longitudinal Study (BPS: 96/01) shows that "students who graduate have a default rate that is about one-third the default rate of students who drop out and about three-fifths of the overall default rate." (*What is Gainful Employment? What is Affordable Debt?,* March 2010, Finaid.org.) The Kantrowitz' analysis suggests that focusing on debt problems for graduates is grabbing the wrong end of the stick if all stakeholders involved are concerned with lowering student loan defaults.

Is there a Better Approach?

Rather than proceed with a metrics-based approach that depends on a flawed premise and inadequate analysis, we suggest that any concerns about gainful employment be based on educating students rather than punishing institutions, which also punishes students by limiting options and access. In addition to a substantial number of new consumer disclosures that go into effect July 1, 2010, based on provisions Congress passed to the Higher Education Act in 2008, we recommend programs be required to provide:

- Identification of one or more occupations for which the program helps the student prepare
- Annual wage and salary information reported at 25th and 75th percentile of the identified occupation(s) from the Department of Labor's Occupational Information Network (O*NET) or a link to O*NET with an explanation that the prospective student can find labor market and wage and salary information on that site relating to employment in various occupations
- Wage and salary data for graduates from the most recently completed year for which data are available, if the institution collects such data for the purposes of this section
- Average federal student loan indebtedness of graduates of the institution with respect to attendance at that institution, on a program, degree-level, or institution-wide basis

- Average institutional loan indebtedness of graduates of a program, degree-level, or institution-wide basis, if the institution provides institutional loans to its students as defined in §668.28(a)(5)(i)

Failure to provide this information or providing misinformation would lead to sanctions. This level of information, in combination with other disclosures, would close any information gaps that exist, maintain program choice, avoid penalizing specific students or classes of students, and prevent unintended consequences, such as the diminution of skilled workers in high demand fields.

In addition to these new elements, we suggest that an institution should be considered in compliance with the Department's Gainful Employment regulation if it can demonstrate to the Secretary that it can meet one of the following criteria:

- **Independent Employer Affirmation** – At least once every three years, not fewer than three employers independent of the institution and each other confirm that the program's objectives, curriculum and measures for assessment of student achievement align with knowledge and skills that are used by employees in performing job duties of occupations at the employer that are related to the program. An institution with multiple locations or multiple institutions under common ownership could use the same employer verification for the same program taught at multiple campuses to avoid undue burden;

or

- **Licensure/Certification** – The program prepares graduates to take state or professional licensure or certification examinations required or preferred for employment in the field. To the extent that the licensure or certification authority has a required pass rate, the institution would be required to be in compliance with those requirements.

The first criteria recognizes the fact that employers are the de facto best judge of value when it comes to preparing the workforce for gainful employment. Employer affirmation provides an important check on the relevance and suitability of a career education. In terms of the latter, if a program prepares graduates to take licensure or certification examinations that are required by law or preferred by employers, it clearly should meet the gainful employment standard.

Conclusion

One can only reasonably conclude that the premise of the Department's proposed gainful employment regulation is at best based on flawed and incomplete data and at worst counter to the notions of educational choice and access to postsecondary education. We respectfully ask that the Department of

Education retract the proposed regulations put forward to the Office of Management and Budget and work with the career education sector on an alternative that protects the interests of students, institutions and the American taxpayer.