CCA
Career College Association

April 21, 2010

The Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Duncan:

The nation's professional and career college sector shares your commitment to postsecondary access, affordability and accountability. We agree with President Obama that education is the key to global competitiveness, and we do our part every day to help America reach the President's 2020 higher education challenge.

We want to thank you and your colleagues at the Department for your willingness to continue to accept input on the five issues on which there was not consensus during the Negotiated Rulemaking sessions that ended in January, in particular related to the issue of Gainful Employment. From our perspective, it was difficult to have a fruitful discussion about the Gainful Employment issue in January in part because the Department released its formal proposal so late (right before the final week of negotiations, as opposed to during the second round in December, as is typical) and, even more importantly, the Department presented no data surrounding its proposal to which we could react. As you know, virtually all of the higher education community negotiators opposed the Gainful Employment proposal during the January session. Our disappointment, therefore, merely continued when the Department recently rejected our Freedom of Information Act request to gain access to the data.

If the U.S. is to once again lead the world in the percentage of adults with a college degree, our system of postsecondary education must be firing on all cylinders. With data now in hand that we have gathered and analyzed through a very reputable third party, it is clear the Department's Gainful Employment proposal introduced in January will reduce rather than expand higher education access. The proposal will eliminate quality programs while doing little or nothing to address the issue of excessive student debt.

A better way forward exists, an approach that protects the interests of students, employers, institutions and taxpayers. This letter outlines our concerns and offers an alternative that both enhances the Department's ability to assist students while eliminating a wide variety of unintended and undesirable consequences.

I write on behalf of the Career College Association (CCA) that represents over 1,450 institutions of higher learning educating well over one million students. The professional and career college sector makes higher education a reality for an otherwise dramatically underserved percentage of Americans—working adults and working class individuals who see and appreciate the immediate connection our institutions create between classroom and workplace. That is why we are the fastest growing sector in higher education today and over recent years. We are adding the high quality, professional and career focused postsecondary capacity the country and prospective students so desperately want and need.

The Department of Education's Gainful Employment proposal fails students and taxpayers on two important counts:

- If the debt-to-earnings ratio is designed to target those programs that leave graduates with excessive debt in comparison to likely earnings, the metric does not work. While the Department has not shared the methodology or data it used to develop this formulation, CCA commissioned an independent study that demonstrates that programs with a high debt-to-income ratio do not have higher rates of loan default; rather, the inverse is true. Graduates with higher debt-to-income ratios are more likely, not less likely as the Department assumes, to repay their student loans.

- If adopted, the impact of this Gainful Employment metric would be widespread, not limited to a few "bad actor" programs or institutions, which is what Department officials have said is their objective. The proposal would shrink the nation's higher education infrastructure, displace hundreds of thousands of students, and reduce the availability of skilled workers in critical occupational fields.

Debt-to-Earnings Ratio

The implicit premise of using a debt-to-earnings ratio as a delineator of program eligibility, as the Department proposes, is that programs that demonstrate a high debt-to-earnings ratio will also lead to students in those programs being unable 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. That is an interesting hypothesis, but as a hypothesis, it is subject to analytical verification. The Department has produced no data to support that premise, but rather presented 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 more than 10,000 programs involving over 600,000 students in 45 states performed by Dr. Jonathan Guryan of the University of Chicago and his colleagues at Charles River Associates (CRA). We also used existing analyses conducted by other independent parties, including Mark Kantrowitz of Finaid.org.

While there may be other 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 Guryan-CRA study analysis of CCA members demonstrates the opposite to be true. 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, 9.8 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 nearly half (3.6 percent) that of the default rate of programs that are not impacted (6.8 percent).

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 based on institutional quality.

Sweeping Negative Impacts

A second premise of the Department's Gainful Employment proposal is that it will impact a relatively small number of programs and institutions—characterized generally as "bad actors" by Department officials—that are knowingly attracting students into programs in which the debt/earnings ratio is "too high" (see premise above), and thus placing those students at high risk of a loan default. You have stated, Mr. Secretary, that you do not want to see this proposal produce "unintended consequences."

Again, the Guryan-CRA research demonstrates that the Department's hypothesis about limited impact on postsecondary education is false and the unintended consequences enormous. The Department's Gainful Employment proposal would shrink substantially access to postsecondary education, eliminating programs in a wide range of high demand areas, such as healthcare, IT, and education. A high level summary of Guryan-CRA study 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
- By 2020, the proposed regulation would *deny access to approximately* ***5.4 million students*** on track to attend programs at for-profit postsecondary institutions, based on projected enrollment rates.

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.

A Better Way Forward Exists

The focus of the solutions to problems that exist related to student debt should be on the student, not the program, unless the program fails the myriad requirements already imposed by federal and state governments and the accrediting agencies. The Department and the other two arms of the "triad" already have numerous tools to go after "bad actors."

While our members make every effort to ensure that prospective students are fully informed about the costs and benefits of education before they enroll, we understand concerns that some students still may not fully appreciate the return on investment. And so fuller disclosure may be in order. However, we reject the sledgehammer solution offered by the Department that would eliminate entire valuable programs in areas such as nursing, education, and information technology because of a debt/income ratio metric.

Instead, the Department could 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. This disclosure is in the nexus between education and employment, and so tracks the focus the Department has in this area.

Rather than proceed with a metrics-based approach that depends on a flawed premise and inadequate analysis, the Department's concerns about Gainful Employment should be based on educating students rather than punishing institutions, which also punishes students by limiting options and access. As you know, a substantial number of new consumer disclosures go into effect July 1, 2010, based on provisions Congress passed to the Higher Education Act in 2008. Also, the prohibitions against misrepresentation will be strengthened, we fully expect, through the Negotiated Rulemaking consensus proposal, provisions we support.

In addition, 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. An attachment to this letter provides a more detailed description of our "Disclosure Plus" recommendations.

In addition to these new disclosure elements that we suggest to ensure students more clearly understand their educational choices, we also propose some modifications to the Gainful Employment definition to address the Department's concern that it is not adequately defined. However, our proposal is based on the nexus between the educational program and the marketplace, not between the program and a student debt/income ratio proposal. Specifically, 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 criterion 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 professional or career education. This proposal is a stronger version of some language the Department included in its January draft on Gainful Employment regarding program eligibility for new programs.

Regarding the second criterion, if a program prepares graduates to take licensure or certification examinations that are required by law, professional/career bodies, or preferred by employers, it clearly should meet the Gainful Employment standard.

Mr. Secretary, 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. Moreover, the Department lacks the statutory authority to carry it out as it is drafted for reasons we have articulated in a legal memorandum we have submitted to the Department.

We are not suggesting that the Department do nothing, however. Instead, we respectfully ask that the Department move away from the ill advised debt/income metric as a means of defining Gainful Employment and put forward a proposal that focuses on increased disclosure to students on issues relating to employment and debt and defines Gainful Employment based on the realities of the labor market for which students are being educated. Such an approach will benefit students and taxpayers, without the widespread negative consequences of the current Departmental approach.

We stand ready to discuss this proposal with the Department and to provide any other data/information that will be helpful to the development of this regulation.

Sincerely,

Harris N. Miller
President and CEO

Attachment