April 12, 2010

The Honorable Anthony Wilder Miller
Deputy Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Miller:

Thank you for soliciting input on the Department of Education's (ED) proposed Gainful Employment (GE) regulation at our recent meetings. We are writing on behalf of our institutions (Kaplan, DeVry, and Education Management Corporation), which together offer opportunities for over three hundred thousand students to attend college annually. We are deeply committed to educating and preparing our students for the new jobs of the 21st century, and to ensuring that our students receive high-quality, results-oriented education, without being burdened by excessive debt.

We understand and support what you are trying to accomplish. We believe that together we can find a solution that addresses student debt and simultaneously enables the Administration to achieve its goals of expanding access to quality higher education, particularly among non-traditional students. We believe both sets of goals are achievable.

We thought it would be most helpful to (a) describe the contribution of the private sector in achieving the Administration's goals, (b) explain the impact of the latest GE proposal made public, and (c) offer a constructive alternative to this GE proposal that would address the ED's concerns without restricting students' access to college opportunities.

Quality Private Sector Colleges Play A Critical Role in Achieving Administration Goals

President Obama has said he wants America to have the highest percentage of college graduates in the world by 2020. This goal will require educating millions of additional college students at a cost of many billions of dollars and cannot be met without the participation of quality private sector colleges like ours. The private sector currently educates some 2.7 million students a year and has the resources to help alleviate the financial burden of achieving the Administration's goal. Moreover, the private sector attracts more non-traditional students – a critical requirement to increasing the number of college graduates.

Not only do private sector colleges attract more non-traditional students, but we also help them graduate and achieve gainful employment at significantly higher rates. A recent report by The Parthenon Group, using ED data for public and private two-year and less institutions, shows that students at private sector colleges graduate at rates roughly 50 percent higher than public schools. The study further shows that private sector college students achieve higher percentage wage increases (54% vs. 36%) after completing their education.[1]

The Current GE Proposal Would Dramatically Limit Students' College Opportunities

Kaplan, DeVry, and EDMC share the ED's goal of ensuring that students receive a quality education and enter programs with a full understanding of the costs, without incurring excessive debt. We would support regulation that appropriately addresses over-borrowing while enabling high-quality institutions to continue their good work of building capacity and innovation in higher education.

The GE criteria proposed by the ED at the end of the most recent Negotiated Rulemaking session attempt to define "gainful employment" by establishing an 8 percent debt-service-to-income threshold based on median student debt for college graduates. Income would be based either on the Bureau of Labor Statistics (BLS) 25th percentile wage data, or actual earnings of college graduates. Loan payments would be based on a 10-year repayment plan.

This proposal as written would have a number of unintended consequences. A recent study by Mark Kantrowitz, a respected independent authority on financial aid, concludes:

> *"The 8% debt-service-to-income threshold is so strict that it would preclude for-profit colleges from offering Bachelor's degree programs. It would also eliminate many Associate's degree programs at for-profit colleges. Even non-profit colleges would find it difficult to satisfy this standard if they were subjected to it."*[2]

Kantrowitz further found that:

> *"The proposed use of Bureau of Labor Statistics wage data . . . will disproportionately harm minority and female students."*[3]

Kantrowitz also points out that the proposed GE rule tasks institutions with a job without providing the tools necessary to complete the job:

[1] Parthenon Perspectives on Private Sector Post-Secondary Schools, February 24, 2010, by Robert Lytle, Roger Brinner and Chris Ross; p. 8; Source: NCES BPS 2004-2006.
[2] What is Gainful Employment? What Is Affordable Debt?, Mark Kantrowitz, March 1, 2010, p. 1.
[3] Ibid.

> *"The debt-service-to-income threshold effectively establishes borrowing limits based on field of study and degree programs, but does not give colleges the controls needed to enforce these limits. Current sub-regulatory guidance precludes colleges from establishing lower loan limits."*[4]

Another study conducted by Charles River Associates reaches similar conclusions, estimating that 18 percent of private sector programs will be disqualified from participation in Title IV programs and that this would impact one-third of private sector students. This means that hundreds of thousands of entering students would be displaced annually from private sector colleges.[5] By 2020, approximately 5.4 million students who otherwise would be on track to attend college would be denied access by the proposed GE regulation.[6]

Finally, the GE proposal would result in significant job loss among the hundreds of thousands of faculty members, administrators, and staff who work in the private post-secondary sector, and in non-degree programs in public sector and independent schools as well.

Students Will Be Protected by Transparent Cost and Debt Information.

We remain concerned that defining "gainful employment" by student debt levels is beyond Congressional intent. We believe that the necessary data to both define the problem and support a sufficient and informed policy have not yet been compiled and analyzed. We are certain there are numerous consequences of the GE proposal that are not currently contemplated by the ED.

For these reasons, we propose that student debt concerns be addressed by mandating that all institutions disclose to students the information students need to make informed decisions prior to taking on student debt, as well as warn students about programs that fail to meet a minimum debt-service-to-income ratio under a new student consumer "lemon law." Prospective students who receive sufficient information at the time of enrollment are in the best position to make an informed decision regarding whether or not to attend an institution. We believe the information students need to make decisions concerning the appropriate amount of debt to incur for a given program should be provided in a disclosure form to students.

The form would include: (a) the cost of the program of study, (b) a reasonable projection of potential earnings in the students' chosen field upon graduation and throughout the life of their employment in that field, (c) a reasonable estimate of the debt students typically incur to complete their program, and (d) students' repayment plan options. A proposed disclosure form

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[4] Ibid. p. 2.

[5] Report on Gainful Employment, Charles Rivers Associates, April 2, 2010, prepared by Jonathan Guryan, PhD, and Matthew Thompson, PhD, p. 38.

[6] Executive Summary to Report on Gainful Employment, Charles Rivers Associates, April 2, 2010, prepared by Jonathan Guryan, PhD, and Matthew Thompson, PhD, p. 1.

is attached as Appendix 1. The accuracy of the information contained in the disclosure form would be ensured by the misrepresentation prohibition that received tentative agreement at the last Negotiated Rulemaking session. The proposed misrepresentation prohibition provides, among other things, that:

- If the Secretary determines an institution has engaged in substantial misrepresentation, the Secretary may revoke or limit that institution's participation in the Title IV programs.
- Misrepresentation is defined as any false, erroneous or misleading statement an institution makes directly or indirectly to a student, prospective student, or any member of the public, an accrediting agency, State agency, or the Secretary.
- A misleading statement includes any statement that has the capacity, likelihood, or tendency to deceive or confuse. The omission of information may also be interpreted as a misrepresentation.

In addition to this disclosure, schools would be required to warn students prior to enrollment of any program that fails to meet a debt-service-to-income ratio test. The debt-service-to-income ratio would be based on the approach recently proposed by the ED, with appropriate modifications discussed below. Institutions offering programs that fail the test would be required to warn students in appropriate marketing materials, and in a written disclosure signed by the student prior to enrollment, that *(a) the program has failed a debt-service-to-income-ratio test,* and *(b) student borrowers enrolling in the program should expect to have difficulty meeting their repayment obligations upon graduation.*

To ensure that the debt-service-to-income ratio is appropriately directed at identifying "outlier" programs we propose that the ratio currently contained in the GE proposal be adjusted as follows:

- Formula applied to non-degree programs only.
  - Degree programs confer lifetime benefits that don't correlate easily to specific job codes, such as higher lifetime earnings, higher income growth rates, greater employability, better career advancement and job stability.[7] In addition, degree holders tend to change jobs and pursue careers seemingly unrelated to the degrees, but using the skills they developed in college. Including degrees in the ratio definition would dramatically undervalue these programs.
  - By applying the formula only to non-degree programs, both private and public institutions are impacted in the same manner.
- A debt-service-to-income threshold of 15 percent, based on median student debt for college graduates, and assuming a current unsubsidized Stafford loan interest rate of 6.8% to calculate the annual repayment amount.

[7]Kantrowitz, pp. 20-21.

  - The 15 percent debt-service-to-income threshold is referenced in the Kantrowitz study as a well as a recent study published by the College Board,[8] and is within the range generally used by personal financial counseling professionals.
- Income based either on the BLS 50th percentile wage data, or actual earnings of graduates if the latter are higher than the BLS 50th percentile.
  - The 50th percentile of the BLS wage data more accurately reflects the long-term potential earnings of a graduate. Moreover, there is no reason to assume that non-degree program graduates, regardless of their backgrounds, would be unable to achieve average earnings.
- Loan payments based on a 20-year repayment plan.
  - The 20-year loan repayment plan is also referenced in the Kantrowitz study and supported by the fact that borrowers are permitted to, and do, choose repayment plans covering a period of up to 25 years.
- Exclude prior school debt from the calculation and provide institutions the regulatory ability to control student borrowing, thereby enabling compliance with ratio and 90/10 requirements.
  - Absent the regulatory ability to control student borrowing, the GE calculation should be based only on direct cost of education.
- Eliminate the ED pre-approval requirement for new programs.
  - State regulatory bodies and accrediting agencies already require approval of all new programs.

We also recommend that the ED consider alternative routes to compliance with the debt-service-to-income ratio test, specifically by establishing: (1) target graduate cohort default rates (GCDRs) (e.g., 12.5% GCDR on a two-year calculation; 15% on a three-year calculation), (2) targets for actual post-graduation salaries that include a multiplier of 1.5x to recognize the fact that *lifetime* earnings are significantly higher than BLS rates, and (3) thresholds for post-graduate employment rates.

We believe that the proposal contained in this letter provides an innovative and effective way to protect students from institutions that over promise and under deliver to students, thus leaving students with too much debt and not enough return on investment.

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[8] *How Much Debt Is Too Much*, Sandy Baum and Saul Schwartz, The College Board, 2006, p. 12.

We appreciate the opportunity to provide this input and we look forward to sitting down with you soon to discuss these matters further.

Yours Truly,

Andrew S Rosen

Andrew S. Rosen
Chairman and CEO, Kaplan, Inc.

David Hamburger

Daniel Hamburger
President and CEO, DeVry Inc.

T Nelson

Todd S. Nelson
CEO, Education Management Corporation

Enclosures
cc: The Honorable Martha J. Kanter
Mr. Robert Shireman

APPENDIX 1

INSTITUTIONAL DISCLOSURES RELATED TO EXPECTED EARNINGS AND DEBT

You have requested information about our __Accounting__ program

Program Level: ☐ Associates ☒ Bachelors ☐ Masters ☐ Certificate/Diploma

Here are some important disclosures for the award year ending __June 30, 2010__

During the year ended __June 30, 2009__, __75.8__ % of students enrolled in this program graduated or continue to be actively enrolled at the institution while __24.2__ % ceased enrollment.

Of the students who graduated, __88.6__ % were employed in their field of study, or a related field, within six months of graduation with an average annual salary of approximately $ __46,300__ per year.

This academic program corresponds to the following Standard Occupational Classification (SOC) codes as reported by the Bureau of Labor Statistics (BLS): __13-2011__. The weighted annual salaries for these SOC codes at the 25th and 75th percentiles are $ __45,900__ and $ __78,210__, respectively. For information related to salaries from these and other occupations, please visit http://www.bls.gov/oes/current/oes_nat.htm.

The cost of this program of study for a student enrolled full-time and with no transfer credits is $ __62,040__. The average annual tuition increase for the most recently concluded three years was __4.6__ %

The average education loan debt of students incurred at this institution and who graduated from this program during the prior award year was $ __33,100__. This amount includes $ __30,900__ of federal student loan debt and $ __2,200__ of institutional loan debt. This does not include any debt incurred while attending another institution. Additionally, __4.6__ % of graduates obtained private student loans from third parties.

If this average education loan debt was 100% federal loans with an average interest rate of 6.8% and you chose to repay using a 10 year standard repayment term, the annual total of 12 monthly payments would be $ __4,571.04__. If you chose to pay using a graduated repayment plan (over 10 years), the total of your first 12 monthly payments would be $ __3,138.60__. For more information concerning repayment options on federal loans, please visit https://studentloans.gov/myDirectLoan/index.action.

The latest official Cohort Default Rate (FY07) from the US Department of Education indicates that __1.7__ % of graduates in this program defaulted on their federal loans.

PLEASE NOTE THAT YOUR ACTUAL EXPERIENCE MAY BE DIFFERENT THAN THE AVERAGES AND STATISTICS PRESENTED ABOVE.

April 19, 2010

The Honorable Anthony Wilder Miller
Deputy Secretary
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Secretary Miller:

Thank you for meeting with us this past Thursday to discuss the Department of Education's (ED) proposed Gainful Employment (GE) regulation. We appreciate the candid discussion, and want to follow up on several items that arose in our meeting.

We appreciated your reinforcement of the ED's public statements that it views private sector presence in the higher education marketplace as positive. We also believe that it is not the ED's intention to eliminate private sector institutions or eliminate private capital from higher education. We view these as important points because the GE proposal made during Negotiated Rulemaking – *which would substantially eliminate proprietary institutions' ability to offer degrees* – is not consistent with the ED's goals.

Our comments come from a sincere concern for the students we serve, an understanding of the limited educational opportunities afforded to these students, and the success stories of their fellow students who graduated before them. We educate hundreds of thousands of students each year, enabling them to obtain jobs and begin careers that are transformational not only for those students, but for generations to follow. We each offer non-degree, associate, baccalaureate and graduate degree programs. Across our three organizations, we enroll more than 300,000 students and employ more than 50,000 faculty and staff each year.

As we discussed, while the ED's GE proposal will exclude fully one-third of our students from the programs they currently attend, its effect on degree programs is the most severe. The ED's GE proposal is unworkable for the vast majority of degree programs in our sector and will result in as many as half of the two million plus degree students at our colleges being denied Title IV funds. This includes, among countless examples, Bachelor's of Science in Nursing students, at a time when our country faces a growing nursing shortage. Private sector colleges are a vital source of new capacity in nursing education as well as in allied health fields, where they educate 54% of all such professionals. We do not believe this could possibly be the intent of the ED, which is why we are asking you to revise your proposal to avoid these unintended consequences.

Likewise, we reiterate that the 50% graduation rate exception described recently does little to ameliorate the impact of the ED's last GE proposal. With the nation's median aggregate college graduation rate at less than 50% for all types of colleges (private, public and non-profit alike – including elite colleges with 90%+ graduation rates), even this exception would exclude the students at more than half of all colleges from participation in the Title IV program. Many of those excluded students would be the very ones Congress was attempting to help through the Stafford and Pell programs, and those for whom there are few other educational opportunities today.

We understand the objectives of the proposed GE regulations are focused on two concerns:

1. The ED's concern that a material segment of students take on disproportionate debt for value received. More specifically, a concern that the risk tolerance of these students essentially means that no amount of warning would deter them from making a poor enrollment decision and "over-borrowing" – i.e., borrowing more than their ultimate job prospects would enable them to repay.

2. The ED's concern about the risk that certain investors could purchase schools with the intention of growing revenue by dramatically increasing enrollment without regard to educational quality, and then turning a quick profit by re-selling the institution to another buyer or to the investing public through a securities offering. The concern here is that such investors would take advantage of the difference between their short timetable and the inherently longer term during which regulatory problems mature - - all while drawing federal financial aid and increasing the overall student debt burden.

As we discussed in our meeting, we share your concern about student over-borrowing and believe our proposal can solve that problem without harming quality schools. Section 1 of this letter expounds further on our student debt proposal and offers additional alternatives.

We also understand your concerns about the incentives certain investors might have and believe that the ED has the tools to constrain them without harming students across the sector. The ED's ability to constrain such investors is discussed in Section 2 of this letter.

1. Our Proposal and Simple Modifications To the Debt-Service-To-Income Ratio Can Solve the Problem of Student Over-Borrowing without Harming Students of Quality Schools

We continue to believe that student debt concerns can be addressed quickly and meaningfully by: (a) mandating that institutions disclose to students the information students need to make informed decisions prior to taking on debt, and (b) implementing a student consumer "lemon law" that warns students prior to enrollment about programs that fail to meet a minimum debt-service-to-income ratio (Appendix A). This approach has at least four advantages over the ED's GE proposal: (1) it addresses the concern that defining "gainful employment" by student debt levels is beyond

Congressional intent; (2) it is a less draconian approach from an enforcement perspective; (3) it avoids the risk of inadvertently eliminating quality programs if the ratio parameters are not set appropriately; and (4) it will immediately address the ED's concerns while still allowing the ED and schools to complete the data collection and analysis necessary to develop a more studied approach, if necessary. This approach would indeed give the ED new tools to address the risk for programs that do not provide value commensurate with their cost.

Under our proposal, in addition to disclosure, a school would be required to warn students if that school had failed certain debt-service-to-income metrics. The proposed metrics would roughly follow those in the ED's latest GE proposal, but with the following modifications:

a. Any Debt-Service-To-Income Ratio Should Apply Only To Non-Degree Programs

As you are aware, the GE requirement contained in the Higher Education Act (HEA) applies to *all* program offerings at proprietary institutions including Associate's, Bachelor's and Master's and doctoral-level and professional degrees (other than a *de minimis* number of "liberal arts" programs) and only non-degree programs at public and private nonprofit institutions. While we believe that a debt-service-to-income formula is inappropriate, we are especially concerned with a formula that is inherently biased against degree programs (and with corresponding alternative measures that are biased as well).

There are a number of reasons why debt-service-to-income ratios such as those contained in the ED's GE proposal should not apply to degree programs. First, it is very unlikely that Congress intended the GE requirement to apply to degree programs. When the GE requirement was first introduced by Congress in the 1965 HEA, very few proprietary schools were degree granting. Second, the at-risk students the ED is seeking to protect are much more likely to enroll in non-degree programs than in degree programs. Third, the lifetime benefits conferred by degree programs, such as higher lifetime earnings, higher income growth rates, greater employability, better career advancement and job stability, don't readily lend themselves to a formulaic approach to measuring value using job codes and BLS statistics. For these reasons, debt-service-to-income ratios should not apply to degree programs.

To accomplish the above and to overcome our concerns with the ED's debt-service-to-income proposal, we recommend the ED use the following language, which tracks the last language proposed at the Negotiated Rulemaking session (bolded to show changes/additions):

> (a) General. (1) An institution . . . offering an eligible ***non-degree*** program . . . ***shall be required to warn students that they are likely to have difficulty meeting their repayment obligations in such program where*** . . . at the end of each three-year period . . . the debt to earnings ratio associated with the program is ***twelve*** percent or less. . . .

(b) Debt to earnings ratio. ***[A]n institution*** calculates the ratio for the three-year period by—

(1) Determining the median loan debt of students who completed or graduated from the ***non-degree*** program (loan debt includes title IV, HEA programs (except Parent PLUS), institutional loans and private educational loans) during the three-year period and using the mean loan debt to calculate an annual loan payment based on a ***15-year*** repayment schedule and the current annual interest rate on Unsubsidized Federal Stafford Loans or Direct Unsubsidized Loans;

(2) Using the most current Bureau of Labor Statistics (BLS) data . . . to determine the annual earnings, at the 25th percentile, made by persons employed in occupations related to the training provided by the ***non-degree*** program; . . .

b. Alternatively, There Should Be a Tiered Approach To the Debt-Service-To-Income Formula

Should the ED be inclined to include degree programs, we recommend different formulae for non-degree programs, Associate's degree programs, and Bachelor's degree programs. Post-baccalaureate programs would not be included as those students, having successfully completed at least a Bachelor's level of education, are more sophisticated consumers and better equipped to make informed borrowing decisions.

We recommend the following graduated degree metrics:

Program Level	Debt-service-to-income threshold	BLS Percentile	Years in Repayment
Non-Degree	12%	25th	15
Associate's Degree	15%	50th	15
Bachelor's Degree	15%	50th	20

These numbers are consistent with the studies by Kantrowitz and Baum referenced in our April 12, 2010 letter.

c. Any Formula Should Contain An Exclusion for Prior School Debt

As we also discussed, prior school debt should be excluded from any debt-service-to-income ratio test. By excluding prior debt, the ED can ensure that students who may have failed in the past will continue to have an opportunity to succeed in the future, without penalizing schools for giving the students that opportunity.

d. There Are Other Alternatives Worth Exploring

In the event the ED chooses to pursue a debt-service-to-income ratio test, we reiterate our recommendation that the ED consider alternative routes to compliance as part of that test. These alternatives include maintaining target graduate cohort default rates (GCDRs) at 12.5% over two years and 15% over three years. They also include a threshold for post-graduate employment rates. We recommend setting a minimum employment rate of 70% within six months following graduation. As we discussed, the employment rate would be measured using methodologies similar to those of the larger national accrediting agencies, but with additional flexibility, particularly for degree programs, as degree-seeking students are likely to use their degree for general employment advancement.

2. The ED Has an Array of Powerful Tools to Constrain Certain New Investors

As we discussed, most private sector higher education companies are invested in students for the long haul. Certainly, Kaplan, DeVry, and EDMC – as well as other higher education organizations – are focused on building enduring institutions that create value for our students, our employees, and our communities. Our institutions will only succeed to the extent our students succeed. We are passionate about our students' achieving their learning outcomes, securing good jobs, and becoming contributing members of society. Our reputation is essential to attracting students, faculty, and employees. Indeed, most of our alumni quietly but successfully enter into essential roles in the American economy – working hard, paying taxes, and raising their families. Their enthusiasm is what encourages other students to join our institutions – and any unhappiness or frustration with their learning experiences would quickly hamper our institutions' ability to attract new students.

We understand your concern that some firms may invest in higher education with different motives and according to a vastly different timetable. They may see an opportunity to purchase a struggling institution, grow it rapidly, and exit the business before difficulties like poor completion, employment rates, cohort default rates or other problems mature -- all at the students' and the taxpayers' expense.

We respectfully submit that the HEA currently provides the ED with ample measures to prevent such a scenario from occurring. A number of such measures are enumerated below. A chart providing additional detail regarding these measures is attached as Appendix B to this letter.

1. The ED has the authority to condition or withhold Title IV approval from new owners who do not have a demonstrated track record.
2. The ED may condition or disallow the resumption of Title IV participation following a change in ownership.

XYZ UNIVERSITY

INSTITUTIONAL DISCLOSURES RELATED TO EXPECTED EARNINGS AND DEBT

You have requested information about our **Veterinary Assistant** program

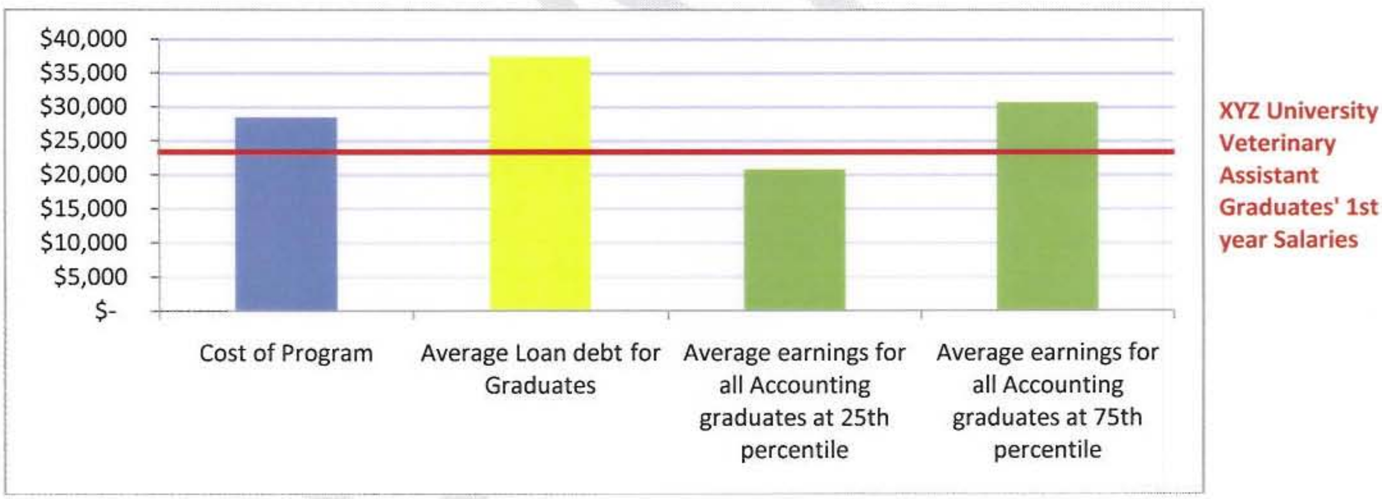
WARNING: The annual loan repayment burden for graduates of this program at XYZ University exceeds the maximum debt-to-earnings ratio as recommended by the U. S. Department of Education.

Program Level: ☐ Associates ☐ Bachelors ☒ Certificate/Diploma

Here are some important disclosures for the award year ending **June 30, 2009**

During the year ended **June 30, 2009**, **81.2**% of students enrolled in this program graduated or continued their enrollment into the next year while **18.8**% withdrew from school.[1]

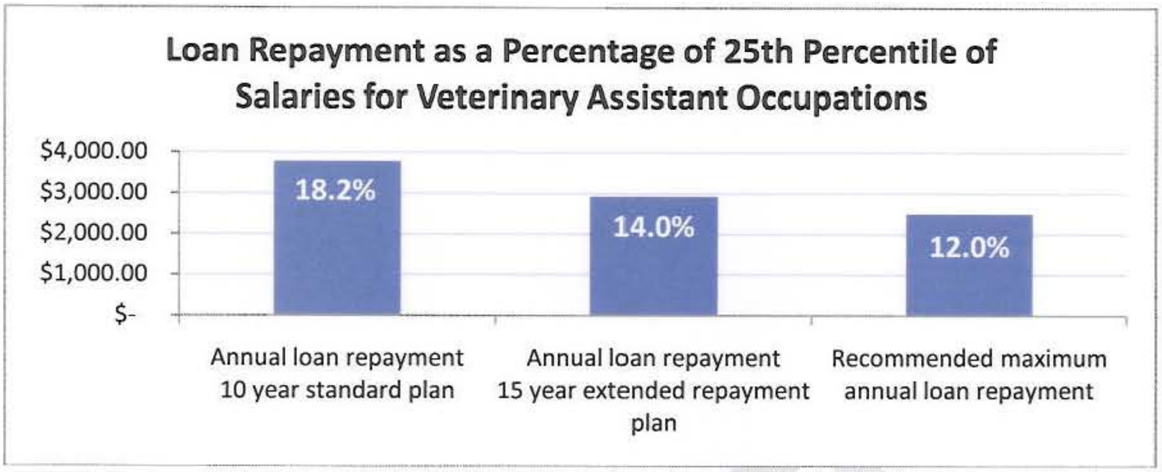
Of the students who graduated and were available for employment[2], **73.4**% were employed in their field of study, or a related field, within six months of graduation with an average annual salary of $**23,600** per year.



The weighted annual salaries for this occupation at the 25th and 75th percentiles are $**20,809** and $**30,706**, respectively.[3]

The cost for this program of study at XYZ University for a student enrolled full-time and with no transfer credits is $**28,440**. The average annual tuition increase for the three most recent years was **4.6**%.

The average education loan debt incurred at this institution for graduates of this program during the 2009 award year was $**27,400**. This amount includes $**20,300** of federal student loans and $**17,100** of institutional loans. Additionally, **2.0**% of graduates obtained private student loans from third parties.



If this average education loan debt was 100% federal loans with an average interest rate of 6.8% and you chose to repay using a 10 year standard repayment term, the annual total of 12 monthly payments would be $**3,83.34**. If you chose to pay using a 15 year extended repayment term, the total of your first 12 monthly payments would be $**2,918.76.**[3]

The latest official Cohort Default Rate (FY07) from the US Department of Education indicates that **3.6**% of graduates in this program defaulted on their federal loans.

NOTE: YOUR ACTUAL EXPERIENCE MAY BE DIFFERENT THAN THE AVERAGES AND STATISTICS PRESENTED ABOVE AND THAT THE DATA PRESENTED WILL CHANGE IN THE FUTURE.

____

(Student Signature)

____

(Date)

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(1) Withdrawal rates are calculated for the selected program using the methodology required for the Institutional Post-secondary Enrollment Data Survey to the U. S. Department of Education. The graduation and continuing enrollment rate represents the complement of the withdrawal rate.

(2) Graduates in the following categories are considered unavailable for employment and are not counted in the placement rate calculation: graduates who are pursuing further education, are deceased, are in active military service, have medical conditions that prevent them from working, are continuing in a career unrelated to their program of study because they currently earn salaries which exceed those paid to entry-level employees in their field of study, or are international students no longer residing in the country in which their school is located.

(3) Salaries are from the Bureau of Labor Statistics as reported for the Standard Occupational Classification (SOC) codes that correspond to the Classification of Instructional Program (CIP) code for this academic program. For information related to salaries from these and other occupations, please visit http://www.bls.gov/oes/current/oes_nat.htm.

(4) Costs are based on tuition rates and fees currently charged to students in the indicated program of study.

(5) The recommended loan repayment is calculated using a debt-to-earnings ratio of 12% of the 25^{th} percentile of salaries as reported from the Bureau of Labor Statistics for the Standard Occupational Classification (SOC) codes that correspond to the Classification of Instructional Program (CIP) code for this academic program.

(6) For more information concerning repayment options on federal loans, please visit https://studentloans.gov/myDirectLoan/index.action.

EDMC
Education Management Corporation

Anthony J. Guida Jr.
Senior Vice President,
Strategic Development and Regulatory Affairs

VIA Email and Regular Mail

March 13, 2010

Robert M. Shireman
Deputy Under Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Re: **Ensuring Effective and Fiscally Responsible Higher Education**

Dear Mr. Shireman:

As a follow on to Tom Babel's email to you earlier today, I also want to thank you and Michael Dannenberg for meeting with Governor Jock McKernan, myself, and representatives of DeVry University and Concorde Career Colleges to begin what I hope will be an ongoing dialogue to address how the Department can better ensure meaningful results for students who participate in the Federal student aid programs. As you know from my position on the Advisory Committee, I also share a common interest with you in actively seeking solutions that will ensure access and affordability for those students from low and moderate income families and other at risk students.

At our meeting you invited us to provide our thoughts and ideas with respect to addressing the Department's concerns with the level of debt that students incur in relation to the education and training being provided. As we discussed, we believe that rather than pursuing the proposed "gainful employment" calculation, this issue is most effectively addressed by a bifurcated approach in which preventing excessive student debt and ensuring student success are approached separately. We also believe that this approach is in line with Congressional intent and the current statutory framework.

Once the extent of the student indebtedness issue is properly defined through data collection and analysis, we believe that the better approach to addressing excessive student debt would be to focus on modifying student behavior by enabling students to make informed decisions at the time their borrowing decisions are made, and not on the colleges and universities who are without any real means to prevent student over-borrowing. Under the current law, our institutions have no direct control over borrowing by their students, and they cannot legally establish lower loan limits than Congress has provided. Further, our experience is that a student's proclivity to borrow maximum federal loan amounts is not significantly impacted by variations in the cost of tuition and fees. In fact, it is driven more by the personal financial background of our students inasmuch as a significant part of their borrowings are to pay living expenses while attending college.

The best and most immediate impact on curbing excessive student debt would be through a clear and concise disclosure made to each student at the time he or she is packaged for financial aid that would provide sufficient information for the student to know and appreciate the long term impact of the financial obligations they are taking on. As Tom describes in his email, such a disclosure would include information such as the cost of tuition and fees for the program of study, the average starting salary for the program, the amount of debt that the student will be taking on, and the student's monthly debt payments after graduation. In this fashion, each student can make an informed decision concerning the debt burden being assumed and their ability to pay back this debt after graduation each and every time a borrowing decision is made. Further, because the issues surrounding excessive debt is common to all of higher education, not just for profit higher education, the approach should be applied to both for-profit and public institutions.

As Tom indicated, EDMC and DeVry are part of a small working group that is currently working on language for an appropriate disclosure, trying to take into consideration the data challenges and wide variety of institutions, degree levels and programs that need to be addressed.

As we related to you at our meeting, there are numerous challenges with an approach in which "gainful employment" is measured formulaically that were left unanswered at the negotiated rulemaking session. Mark Kantrowitz in his white paper on this issue does an excellent job of delineating most of them and I won't rehash them here. Further, the necessary data to both define the problem and support a sufficient and informed policy have not yet been complied and analyzed. Uncertainties inherent in the current approach to gainful employment thus make it very difficult for us to know with reasonable certainty whether any proposed rule would actually address the Department's stated concern of excessive debt in relation to the education and training provided.

We further believe that the proposed approach to a gainful employment regulation would stifle the opportunity for hundreds of thousands of Americans, who have selected for-profit institutions, to acquire new job skills that are necessary for employment in the 21st Century workforce by causing the elimination of many programs that provide meaningful results for students. This is particularly true for tens of thousands of our art, design, and culinary students.

For example, EDMC's colleges and universities prepare students for high demand careers and professions and its programs fulfill a niche role and are an important element in the broad spectrum of education opportunities for America's workforce. (A fact sheet further describing our institutions and programs is attached). Approximately 92% of the students who attend our colleges and universities are in degree programs, with approximately 65% of those students pursuing a baccalaureate degree and above. Almost 50% of our students are minorities and nearly two thirds are women. Further, we serve a very significant Pell eligible population, with some of our institutions having more than 80% of their population being Pell eligible.

Given the makeup of our program offerings and student body, we are very concerned with the impact that that the proposed rule will have on current and future students in our programs. If the conclusions of Mark Kantrowitz in his white paper are correct, the proposed rule:

- Makes it nearly impossible for any institution to continue to offer any Bachelors degree and above programs and many Associate degree programs (the same would be true for non profit institutions were the rule to apply to them)
- Disproportionately harms minority and female students attending our institutions
- Does not take into consideration our students' non financial reasons for pursuing higher education, including better employability, greater job security and benefits, and fulfillment and personal enrichment (the "passion" programs such as culinary and photography offered by the Art Institutes that we discussed).

As you testified last October before the Higher Education Lifelong Learning, and Competitiveness Subcommittee of the House Education and Labor Committee, students with degrees and other formal credentials from our Country's postsecondary education institutions are more likely to be employed, even during these difficult economic times. This is born out in our results. In our Art Institutes, for example, which currently enroll more than 75,000 students, over the last 12 months more than 85% of our graduates are employed within 6 months of graduate in their field of study using a calculation similar to that required by our national accreditors. For graduates from the Art Institute's programs, their 2-year (FY 2007) cohort default rates were 1.2%. These are the types of programs and student outcomes that should be encouraged by the Department in the current economic environment, not regulated out of existence.

Finally, we believe that measures to ensure student success are best approached separately from the indebtedness issue and should focus on assuring positive student outcomes through accountability measures such as retention and graduation rates, placement rates, starting salaries, and success on licensure and certification examinations. This is also an area where additional data and analysis is required before proper benchmarks can be established. In particular, there is a dearth of data on what appropriate measures of success in these areas should be when addressing low-income, minority, first generation and other at-risk student populations.

EDMC looks forward to working with you and the Department on sensible ways to address the issue of student debt and to develop meaningful measures of student success. As a Board member of the Career Colleges Association, I also could work with you and our sector in an attempt to reach regulations that make sense for addressing the issues you have identified.

Sincerely,

Anthony J. Guida Jr.

Encl.

cc: Michael Dannenberg
Jock McKernan, EDMC
Tom Babel, DeVry University
Tim Foster, Concorde Career Colleges

EDMC
Education Management Corporation

FACT SHEET

210 Sixth Avenue, 33rd Floor, Pittsburgh, PA 15222 | 412-562-0900 | www.edmc.edu

WHO WE ARE

With 97 locations in 30 U.S. States and Canada, Education Management Corporation (EDMC) is among the largest providers of private post-secondary education in North America, based on student enrollment and revenue. All EDMC schools are accredited by accrediting agencies recognized by the U.S. Department of Education. Likewise, each EDMC school is licensed by the state in which it is located and is authorized to confer its respective doctoral, master's, bachelor's, associate's and diploma/ certificate level programs.

EDMC was founded in 1962 and is headquartered in Pittsburgh, Pennsylvania. In 1970, the company made its first acquisition, The Art Institute of Pittsburgh. John R. McKernan, Jr. serves as the Chairman of EDMC's Board of Directors; Todd S. Nelson is Chief Executive Officer; and Edward H. West serves as President and Chief Financial Officer.

WHERE WE EDUCATE

EDMC has schools in these States/Provinces:

Alabama	Minnesota
Arizona	Missouri
British Columbia, Canada	Nevada
California	New Mexico
Colorado	New York
Florida	North Carolina
Georgia	Ohio
Hawaii	Oklahoma
Idaho	Oregon
Illinois	Pennsylvania
Indiana	South Carolina
Kansas	Tennessee
Kentucky	Texas
Massachusetts	Utah
Michigan	Virginia
	Washington

To reach more students seeking access to quality higher education, 54 of EDMC's schools are located in center city locations. Online higher education degree programs are offered at The Art Institutes, Argosy University, and South University.

QUALITY
What We Do

EDMC has four primary education institutions that offer a broad range of academic programs concentrated in the creative and applied arts, behavioral sciences, education, health sciences, and business fields, culminating in the award of associate through doctoral degrees, as well as non-degree programs. In addition, Western State University College of Law offers the *juris doctorate* degree:

- **Argosy University** (www.argosy.edu), with 19 campus locations in 13 states, provides undergraduate and graduate degrees to students in an environment where academic knowledge is paired with interpersonal skills vital to success in an increasingly competitive market. Argosy University has five colleges: Psychology and Behavioral Sciences, Business, Education, Health Sciences, Undergraduate Studies.
- **The Art Institutes** (www.artinstitutes.edu) is a system of more than 45 education institutions located throughout North America, providing an important source of design, media arts, fashion, and culinary arts professionals.
- **Brown Mackie College** (www.brownmackie.edu), with 24 schools located throughout the United States, offers educational programs that prepare students for entry-level positions in a rapidly-changing workplace. Brown Mackie College schools offer bachelor's degree, associate degree, certificate, and diploma programs in health sciences, business, information technology, legal studies, and design technologies.
- **South University** (www.southuniversity.edu), established in 1899, is a private academic institution dedicated to providing educational opportunities for the intellectual, social, and professional development of a diverse student population. South University offers educational programs at seven campuses in five states.
- **Western State University College of Law** (www.wsulaw.edu) was founded in 1966 and is the oldest law school in Orange County with more than 10,000 alumni. Located in the heart of Southern California, Western State University has produced more California judicial officers than any other law school and is fully accredited by the American Bar Association.

COMMUNITY
How Our Students are Making a Difference

EDMC's vision is to help students achieve their educational goals across the full spectrum of in-demand careers. Graduates from EDMC owned schools are employed by companies and organizations of all types and sizes, including companies such as the Sony Corporation, Adidas, Verizon, Ford Motor Company, and Walt Disney Company. To help prepare students for a career in a rapidly-changing global economy, each school's Career Services department offers a range of services and resources that support student career-planning efforts.

GROWTH
Who We Educate

With a collective enrollment of 136,000 students as of Fall 2009, EDMC and its school systems employ approximately 20,212 full-time, part-time, and adjunct faculty and staff. Nearly two-thirds of EDMC students are female, and the average age of an EDMC student is 27.7 years. To expand its reach to more students than ever before, EDMC is actively working with the U.S. Department of Veterans Affairs in the "Yellow Ribbon" reduced tuition program, part of the post-9/11 G.I. Bill.

March 18, 2010

The Honorable Arne Duncan
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202-0008

Dear Secretary Duncan,

Currently, the Department of Education is proposing a rule that would severely limit higher education opportunities for thousands of Americans. This proposed "Gainful Employment" provision would make certain programs ineligible for Title IV financial aid, effectively eliminating the opportunity for lower-income students to attend these degree programs. Perhaps a better term for the proposed rule is the "Mandated Income Loan Test," since eligibility for Title IV aid would be determined by a program's failure to meet a single debt service-to-income ratio test, rather than the program's success or student satisfaction.

As currently written, the Mandated Income Loan Test (aka Gainful Employment) would disproportionally harm low-income and minority populations by discriminating against students who must borrow the needed tuition to attend college. Without financial aid, access to higher education will be limited for thousands of students. At present, Black students make up 18% of enrollees in for-profit colleges and universities – many of them would find it impossible to pursue higher education without this financial aid.

The National Black Chamber of Commerce works to empower Black communities and is made up of 95,000 Black owned businesses. With 190 affiliated chapters internationally, we work to sustain Black communities through opportunity.

By moving forward with the proposed Mandated Income Loan Test, the Department of Education is taking higher education opportunities away from Black students and other minorities, by withholding financial aid for the programs they choose. We urge you to eliminate the debt service-to-income test from the proposed rule in order to maintain choice and opportunity for Black students across the country.

Respectfully,

Harry C. Alford

Harry C. Alford
President & CEO
National Black Chamber of Commerce

For more information, please call NBCC at (202) 466-6888 or visit www.nationalbcc.org/. The National Black Chamber of Commerce is dedicated to economically empowering and sustaining African American communities through entrepreneurship and capitalistic activity within the United States and via interaction with the Black Diaspora.

National Black Chamber of Commerce
1350 Connecticut Avenue NW Suite 405, Washington DC 20036
202-466-6888 202-466-4918fax www.nationalbcc.org info@nationalbcc.org

League of United Latin American Citizens

May 10, 2010

Secretary Arne Duncan
United States Department of Education
400 Maryland Ave, SW.
Washington, D.C. 20202

Dear Secretary Duncan:

As national executive director of the League of United Latin American Citizens, I am writing on behalf of our organization, whose mission is to advance the economic condition, educational attainment, political influence, housing, health and civil rights of the Hispanic population of the United States. We recognize the need for higher education in today's society and want to ensure that our youth are not denied opportunities.

The National Hispanic Caucus of State Legislators recently passed a resolution calling on the Department of Education to reconsider the proposed "Gainful Employment" rule that would deny access to student loan financing for students who attend some private-sector colleges and institutions. We support the resolution, which points out that:

- Private-sector colleges have a higher percentage of minority students than do other sectors.
- Private-sector institutions offer a broad range of academic programs concentrated in the creative and applied arts, behavioral sciences, education, health sciences and business fields.
- A "Gainful Employment" rule may disproportionately harm low-income and minority populations by discriminating against students who must borrow the needed tuition to attend college.

Students choose colleges and institutions based on a number of factors, including field of study, location, flexibility in class hours and reputation among companies that hire graduates. To exclude students who chose a college and institution from eligibility for Title IV financial aid, simply because of the institution's ownership structure, denies these students their freedom of choice.

We join with the National Hispanic Caucus of State Legislators in urging you to more carefully study the impact of this proposed rule, particularly on Hispanic and other minority and low-income students, and choose instead to allow students to have fair and equal access to higher education in order to meet their career aspirations. I am writing to urge you to reconsider the proposed "Gainful Employment" rule that would disproportionately harm minority and low-income students seeking to further their education.

Thank you for your consideration,

Brent Wilkes

Brent Wilkes
National Executive Director

NHCSL

National Hispanic Caucus of State Legislators

RESOLUTIONS ADOPTED BY THE NHCSL EXECUTIVE COMMITTEE AT THE SPRING EXECUTIVE COMMITTEE MEETING APRIL 10, 2010 IN WASHINGTON, D.C.

NHCSL
National Hispanic Caucus of State Legislators

2010-01

Rep. Pedro Marin (GA)

Introduced April, 2010 Executive Meeting (Adopted)

A RESOLUTION

To Ensure Hispanic Students Retain Access to Financial Support for Career Training and Privately Funded Institutions

Short Title: Ensure access to student loan financing.

WHEREAS Private sector colleges comprise 2,750 of the 6,750 postsecondary institutions across the United States; and

WHEREAS Two and four year private sector colleges have a higher percentage of minority students than do other sectors. Over 50 percent of students attending career colleges are minority students, compared to approximately 34 percent at public and 32 percent at private, not-for-profit four-year institutions, while 14.3% of all current private-sector college students are Hispanic; and

WHEREAS Private-sector institutions offer a broad range of academic programs concentrated in the creative and applied arts, behavioral sciences, education, health sciences, and business fields, culminating in the award of associate's through doctoral degrees as well as non-degree programs; and

WHEREAS The U.S. Department of Education is considering a "Gainful Employment" rule that may limit education and economic opportunities for hundreds of thousands of Americans by making entire programs ineligible for Title IV financial aid if they fail to meet a single debt service-to-income ratio test; and

WHEREAS A "Gainful Employment" rule may disproportionally harm low-income and minority populations by discriminating against students who must borrow the needed tuition to attend college; without such financial aid, higher education opportunities will be limited for thousands of students; and

WHEREAS The U.S. Department of Education's "Gainful Employment" rule threatens a top source of highly-qualified graduates who are prepared to enter the workforce with the skills they need to begin their careers and add value for their new employers on day one; and

WHEREAS The need to improve the education level, career readiness and job skills of American workers is critical if our nation is to meet the President's goal of this nation once again having the highest proportion of college graduates in the world by 2020;

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2010-01

Rep. Pedro Marin (GA)

Introduced April, 2010 Executive Meeting (Adopted)

BE IT RESOLVED, that the Department of Education must support the goal of increasing the number of college graduates among American students; that regulations promulgated by the Department of Education should promote fair and equal access to higher education and that career aspirations should be a matter of choice for those pursuing a higher education;

BE IT FURTHER RESOLVED, that the U.S. Department of Education carefully study the impact of the debt service-to-income ratio included in proposed "Gainful Employment" language to Hispanic, poor and other minority students before any such rule may be implemented.

Sponsored by: Rep. Pedro "Pete" Marin (GA)

THIS RESOLUTION WAS ADOPTED BY THE NHCSL EXECUTIVE COMMITTEE ON APRIL 10, 2010 AT THE 2010 NHCSL EXECUTIVE COMMITTEE MEETING IN WASHINGTON, D.C.

Real World Example: 8% Debt-Payment-To-Income Ratio is Unrealistic

Bachelor's Degree at 4 year Institutions	Average Cost of Attendance (2007-08)[1]	Average Cumulative Debt at Graduation (2007-08)[1]	Min. Starting Salary to Satisfy Gainful Employment Rule[2]	BLS 25th Percentile Wages-Bachelor's degree (2008)[3]
Private Not-for-Profit	$102,484	$27,542	$47,543	$36,920
Private For-Profit	$81,216	$32,906	$56,802	$36,920

[1] Growth in Cumulative Education Debt at College Graduation, by Mark Kantrowitz (Aug. 28, 2009).

[2] The minimum starting salary required given Average Cumulative Debt at Graduation , an 8% debt-payment-to-income ratio, over a 10 year repayment period.

[3] Bureau of Labor Statistics, Labor Force Statistics (CPS), (unadj)-Usual weekly earnings (first quartile), Employed full-time, Wages and Salary workers, Bachelor's degrees only, 25 years and over (annualized).

Tuition at The Art Institutes is lower than many not-for-profit institutions

	Tuition - Net of Institutional Grants (2008)[1]
Not-for-profit Institutions:	
Rhode Island School of Design	$31,862
California Institute of the Arts	$27,747
Art Center College of Design	$27,270
The New School	$25,489
Pratt Institute-Main	$25,376
Otis College of Art and Design	$24,002
The Art Institutes	$22,058

[1]Source: IES, National Center for Education Statistics. IPEDS Data Center 2008 Survey Data – Student Financial Aid Report (calculated based on Published Tuition Rate - Average Institutional grant/student). http://nces.ed.gov/ipeds/datacenter/DataFiles.aspx