

April 12, 2010

The Honorable \_\_\_\_\_  
XXX \_\_\_\_\_ House/Senate Office Building  
Washington, D.C. 20\_\_\_\_

Dear Governor/Senator/Representative \_\_\_\_\_:

We are writing to express our strong opposition to the proposed gainful employment regulation currently being considered by the U.S. Department of Education (ED). The Department proposal would limit access to postsecondary education in high demand fields such as nursing, education, and technology, particularly for working adults and lower income students who are not part of the traditional higher education system. ED is making this proposal absent any data to prove a problem even exists, let alone any analysis of the negative consequences for students and our country. We ask you to join us in opposing actively this misguided and unsubstantiated proposal and support enhanced consumer information as an alternative.

In the absence of government data and analysis to back the proposed regulation, the Career College Association (CCA) enlisted independent, third party researchers to provide a detailed analysis of the ED proposal's impact on students' access to higher education. A study of approximately 640,000 students and over 10,000 separate programs authored by Dr. Jonathan Guryan of the University of Chicago in conjunction with his colleagues at Charles River Associates determined that the Department's gainful employment proposal would have an enormous negative impact on student's access to higher education and, by implication, the US workforce and our global competitiveness. An Executive Summary of that study is attached.

Based on the ED proposal that would eliminate postsecondary programs above a specific ratio between student borrowing and initial earnings, the research team found:

- By 2020, the proposed regulation would *deny access to approximately 5.4 million students* on track to attend for-profit postsecondary institutions, based on current enrollment rates.
- **33 percent** of students in private sector postsecondary programs would be harmed by the gainful employment regulation proposal.
- Graduates from programs that must meet the gainful employment provision of the law with higher debt to income ratios are more likely, not less likely as the Department assumes, to repay their student loans.
- The negative impact will fall substantially on women/minorities. The 361,000 students in affected programs each year would include 68,300 non-Hispanic black students, 78,500 Hispanic, and 179,000 women.

An alternative common sense proposal developed by CCA focuses on enhanced consumer disclosures plus independent employer affirmation or licensure/certification. This alternative, a copy of which is attached, enumerates seven specific pieces of information an institution covered by the gainful employment statutory language would be required to disclose to a prospective student beyond current law. This will ensure students are fully informed about: 1) the implications of any borrowing they undertake, 2) the types of occupations for which they are preparing for and 3) the range of earnings in that occupation. This level of information would close any 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 disclosure elements suggested by CCA to ensure students more clearly understand their educational choices, they are also proposing some modification to the gainful employment definition to address the Department's concern that it is not adequately defined. However, the 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, CCA suggests 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 measure 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.

Institutions that do not provide this information or misrepresent the information would be sanctioned.

If you share our concerns, we respectfully request your assistance in contacting Secretary of Education Arne Duncan, Office of Management and Budget Director Peter Orszag, and White House Domestic Policy Advisor Melody Barnes, to urge them to recommend an alternative to the ED proposal that focuses on enhanced consumer disclosure, rather than a simplistic formula with enormous negative consequences. In your correspondence, you might consider enquiring whether ED can provide you data to support their proposal, including an analysis of the impact in your state/Congressional District.

Thank you in advance for your efforts to address this critical issue. If you have any questions, please contact Brian Moran, CCA Executive Vice President for Government Relations, at (202) 336-6817, [brianm@career.org](mailto:brianm@career.org).

Sincerely,