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July 14, 2017

Kathleen Smith
Acting Assistant Secretary for Postsecondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Hilary Malawer
400 Maryland Avenue, SW
Room 6E231
Washington, DC 20202

Re: ED-2017-OPE – 0076; Negotiated Rulemaking on Gainful Employment and Borrower Defense to Repayment

Dear Ms. Smith:

We appreciate that the Department plans to send the Gainful Employment and Borrower Defense to Repayment regulations back into formalized discussions through negotiated rulemaking, and we applaud this commitment to a fair and balanced reconsideration. While we understand and agree with a process by which post-secondary institutions demonstrate the value and return on investment of the educational programs they offer, we suggest that the Department consider a replacement to GE that is structured to compare the cost of a program with the salaries that can be earned with that credential, as opposed to looking at *actual* student debt and *actual* student earnings of individual cohorts. There are literally hundreds of reasons that the current GE structure will produce false, erroneous, and misleading information.

On one hand, by looking at actual student debt information at the time of graduation, there is no accounting for the various ways that students pay for their education.

- A student who pays for their education fully with personal funds while in school has no debt in the GE metric.
- A student who leaves school with debt but pays it off within a few months of graduation is counted as one who has debt in the GE metric, but is truly no different than the first student mentioned above—both students paid their cost of attendance and have no debt by the time they begin employment.
- A student who pays using Veterans benefits has no debt. Schools with a higher veteran population, then, are unfairly advantaged with the current GE regulations, and could technically charge as much as they want for their education with no GE ramifications whatsoever.
- A student who borrows very little money and pays out of pocket while in school wisely limits their debt; students who borrow the exact amount needed to cover tuition might also borrow wisely; those who borrow well more than they need for their education from multiple sources could be considered an unwise borrower. In all three of these scenarios, the students leave school with a completely different debt burden, but the cost of their education was the same.

With the current GE regulation, the school is being penalized or rewarded on the students' borrowing practices, which are out of the school's control. The school can control its pricing and can offer some financial counseling to students, but it cannot control the students' consumer borrowing practices! Because of the method the Department is using to calculate student debt (at the time of graduation), the student who pays in cash leaves with \$0 debt; the student who pays off the debt a few months after graduation also has \$0 debt but is misleadingly counted as *having* debt; the Veteran leaves with \$0 debt; the student who borrowed conservatively leaves with some debt; and the student who borrowed irresponsibly from multiple sources leaves with too much debt. Likewise, a student who

failed some classes may leave with even *more* debt. But using the actual debt burden with which a student leaves school does not actually tell the Department *anything* about the cost of the program, the value of the program, or whether that cost can be reasonably offset by employment opportunities. The only thing the current GE formula does is punishes schools for irresponsible student borrowing practices. And, as you know, the Department of Education's own regulations forbid us from limiting the amount of loan monies they are allowed to borrow.

On the other hand, by using student Social Security information to determine actual graduate earnings, the Department is asking for a range of misleading information that does not accurately demonstrate the value of an institution's education. There are many valid reasons that a student might not choose to pursue employment after school:

- Some students are unable to work because of disabilities or family obligations.
- Some students stop working to support their families by raising children at home.
- Students sometimes benefit intellectually from academic programs but decided not to pursue employment in field afterwards, but instead, pursue different interests or further academic study.
- Many students benefit from freelance work, self-employment, or gratuity-earning employment that is not captured in Social Security information.
- Some students fail to fill out their tax returns.

In all of these cases and more, the Department's current GE calculation fails to account for normal graduate life decisions and directly penalizes the school for those decisions. Can you imagine the University of Virginia or Harvard being penalized or held accountable every time a university graduate fails to fill out their tax return? Nobody wants a citizen to ignore their civic responsibility of paying taxes, but at the same time, nobody would say that it is their college's fault if they fail to do so. But that is exactly what happens with the current Gainful Employment regulations: if students fail to report earnings on taxes or report earnings incorrectly, our schools are punished! Universities (which generally offer few if any non-degree programs) and degree programs at Community Colleges are not penalized for their graduates' decision making, but Career Schools are directly penalized for these normal life directions that graduates choose due to the Department's current methodology of assessing income levels.

Instead of the Department's current methods of assessing program value, we hope that the Department will ask schools to demonstrate program value based on pricing and standard job employment information. For example, the Bureau of Labor Statistics (BLS) publishes detailed job earnings information for all "gainful employment programs." We are required by our accreditor to provide BLS information when proposing, revising, or maintaining our programs. It would make sense for the Department to ask us to justify the cost of our programs in relation to the earnings that graduates could expect, as published by the government's own BLS website. Indeed, this type of government-supported financial justification would allow us to compare the cost that a student may put in to their education with the return on that investment that they can expect upon being employed. We hope that this more realistic approach to measuring the gainful employment proposition will be considered as the Department begins its next round of consideration.

We also hope very much that the Department will apply its gainful employment standards fairly among all sectors of higher education. Without question, the Department is holding proprietary Career Schools to a higher standard than they are holding private nonprofit and public Community Colleges and Universities. Within our school system, we teach very successful associate and baccalaureate degree programs in business, allied health, and technology. Of course, degree programs are longer programs, and in those programs, students obviously incur more tuition expenses than shorter programs. The Department does not currently require Community Colleges or Universities to report Gainful Employment data on their degree programs, but it does require private, proprietary schools to do so. We find this to be an injustice to student choice, and we hope that the Department will have the courage to apply its value proposition standards equally to all sectors of Higher Education within its revision of this regulation. The question of value proposition makes sense, and all institutions should be able to demonstrate that students leave school in a more financially advantaged position after graduation. But applying this metric differently depending upon the tax status of the different institutions of higher learning is harmful to students, to the ethics of Higher Education, and to the industry partners who seek to employ our graduates.

So, we ultimately agree with the Department's own determination last month that the Gainful Employment regulation should be reconsidered. In June, Education Secretary DeVos stated that "last year's rulemaking effort missed an opportunity to get it right. The result is a muddled process that's unfair to students and schools, and puts taxpayers on the hook for significant costs. It's time to take a step back and make sure these rules achieve their purpose." With that statement, she announced that the GE regulation would undergo reconsideration through negotiated rulemaking. We are hopeful that the Department will be able to benefit from this collaborative process and that the product will be a solid set of rules that are applied fairly and evenly through all sectors of higher education.

Meanwhile, since the Department now believes that the GE rules appear to be "a muddled process that's unfair to students and schools," we hope very much that the Department will "take a step back" by dismissing the current set of rules and ramifications on programs that fail to meet the current benchmarks, so that you can design new rules that reliably meet the purposes you are trying to achieve.

We are also very hopeful that you will repeal the Borrower Defense to Repayment regulation, or redesign it in a way that is applied fairly among all sectors of higher education. Importantly, Borrow Defense to Repayment already has a replacement in place: state departments of education. The American educational triad positions accreditation as the quality control agent, and the state as the defender and protector of the consumer (what BDR is trying to supplant). No replacement is necessary, because that replacement already exists in the form of our state departments of education. We feel that the Department has attempted to infringe upon states' rights to protect consumers. That said, anyone would be in favor of quality control measurements that are applied equitably among all sectors of education. So, any replacement of BDR should be applied equally among Career Schools, Community Colleges, and Public and Private Universities.

It is essential that we point out that it is not just a sector of schools that risk being harmed by the Department's regulatory work here. Indeed, the American workforce, citizens, and even the Department of Education itself will be harmed by the errors within the current version of the regulations, because Universities and Community Colleges do not fill the needs of all career training as is needed throughout the country. As an example, we will provide the example of Aviation Maintenance Technology, a field with which our institution is the most intimately familiar. In the state of Virginia, there are three institutions of Higher Education that teach the FAA-certified Aviation Maintenance program:

1. **Aviation Institute of Maintenance** is a proprietary aviation school in Chesapeake, VA, which enrolls about 200 students per year, and its certified graduates go to work serving the aviation maintenance needs in Richmond, Norfolk, Virginia Beach, and the highly populated Hampton Roads region. AIM is held accountable for its graduation rates, FAA certification licensure rates, and aviation-related job placement rates. At least 70% of graduates must become employed in the aviation field in order for us to satisfy our accreditor requirements.
2. **Aviation Institute of Maintenance** administers a second proprietary campus in Manassas in Northern Virginia, which enrolls about 200 students per year, and its certified graduates go to work serving the metropolitan Washington, DC area, providing mechanics to United Airlines at Dulles International Airport and American Airlines at Reagan National. AIM is held accountable for its graduation rates, FAA certification licensure rates, and aviation-related job placement rates. Again, 70% of graduates must become employed in the aviation field in order for us to satisfy our accreditor requirements.
3. **Blue Ridge Community College** is a state community college in the western region of the state and enrolls around 20 students per year. BRCC is *not* held accountable for its graduation, certification, or placement rates, and because it is an associate degree program, the US DOE will *not* hold it accountable for Gainful Employment ratios, nor does it propose to apply Borrow Defense to Repayment regulation to the school.

If GE and BDR dissolve private career education as they are intended to do, 420 trained aircraft mechanics per year in Virginia (96% of whom are trained in the most populated areas of the state) would devolve into 20 trained aircraft mechanics being trained only in the least populated region of the state! Industry would be harmed, the workforce would be stifled, the economy would be depressed, student vocational options would be diminished, the very politicians who invented the situation would be grounded from their flights, and not a single student will have been "saved" from anything!

We hope very much that you will repeal the current version of these rules and use the negotiated rulemaking process to formulate return-on-investment rules that are applied fairly to all institutions, that help us create pricing structures and be measured on them in the future rather than applying them to past cohorts of students, and serving both students and the workforce community with integrity and rationality.

Thank you so much for hearing our concerns about the Gainful Employment and Borrower Defense to Repayment regulations as you enter a new round of negotiated rulemaking. We would be happy to serve the Department with further input, and I would personally be happy to serve on a Negotiated Rulemaking panel if that would be of service. Thank you for allowing us a voice within this process, and we greatly appreciate your service to the post-secondary students of our country.

Sincerely,

A handwritten signature in black ink that reads "Joel A. English". The signature is written in a cursive, flowing style.

Dr. Joel A. English
Vice President of Operations
Aviation Institute of Maintenance
Centura College
Tidewater Tech