



February 3, 2011

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

**Officers**  
**Interim Chairperson**  
Judith L. Lichtman  
National Partnership for Women  
& Families  
**Vice Chairperson**  
Karen K. Narasaki  
Asian American Justice Center  
**Secretary**  
Barry Rand  
AARP  
**Treasurer**  
Lee A. Saunders  
American Federation of State,  
County & Municipal Employees

**Executive Committee**  
Barbara Arnwine  
Lawyer's Committee For  
Civil Rights Under Law  
Arlene Holt Baker  
AFL-CIO  
Marcia Greenberger  
National Women's Law Center  
Linda D. Hallman  
American Association of  
University Women  
Mary Kay Henry  
Service Employees  
International Union  
Andrew J. Imparato  
American Association of People  
with Disabilities  
Benjamin Jealous  
NAACP  
Michael B. Keegan  
People For The American Way  
Floyd Mori  
Japanese American Citizens  
League  
Marc H. Morial  
National Urban League  
Janet Murguia  
National Council of La Raza  
Debra Ness  
National Partnership for Women  
And Families  
Terry O'Neill  
National Organization for Women  
Jacqueline Johnson Pata  
National Congress of  
American Indians  
John Payton  
NAACP Legal Defense and  
Educational Fund, Inc.  
Dennis Van Roekel  
National Education Association  
Anthony Romero  
American Civil Liberties Union  
Thomas A. Saenz  
Mexican American Legal Defense  
& Educational Fund  
David Saperstein  
Religious Action Center for  
Reform Judaism  
Shanna L. Smith  
National Fair Housing Alliance  
Joe Solmonese  
Human Rights Campaign  
Randi Weingarten  
American Federation of Teachers  
Mary G. Wilson  
League of Women Voters  
Sara Najjar-Wilson  
American-Arab Anti-  
Discrimination Committee

**Compliance/Enforcement  
Committee Chairperson**  
Karen K. Narasaki  
Asian American Justice Center  
**President & CEO**  
Wade J. Henderson  
**Executive Vice President & COO**  
Karen McGill Lawson

RE: Proposed "Gainful Employment" Rule, Docket ID ED-2010-OPE-0012

Dear Secretary Duncan:

On behalf of The Leadership Conference on Civil and Human Rights, a coalition charged by its diverse membership of more than 200 national organizations to promote and protect the rights of all persons in the United States, along with the undersigned organizations, we write to express our collective support for a strong "gainful employment" rule.

The Department's proposed regulation to define gainful employment under Title IV of the Higher Education Act of 1965 and to protect students from programs that do not deliver on their marketed promises of a better future falls within our mission and has generated significant support from our members. In fact, many of our members – including the American Association of University Women, the American Federation of Teachers, the Mexican American Legal Defense and Educational Fund, the National Council of La Raza, the National Education Association, and the United States Student Association – submitted comments in response to the Federal Register notice published on July 26, 2010.

Accordingly, we urge the prompt adoption of a strong final gainful employment rule, one that will protect students and taxpayers no later than the 2012 academic year.

In order to be eligible to receive student financial aid grants and loans under Title IV, current federal law requires all post-secondary career education programs, including *all* public and nonprofit college programs of less than two years and nearly all for-profit college programs, to "prepare students for gainful employment in a recognized occupation." What constitutes "gainful employment," however, has yet to be defined. The proposed rule, if finalized, would fill this void and enable long overdue federal enforcement, protecting students and taxpayers alike from millions of dollars in wasted Pell Grants and defaulted student loans.

The need for the rule is particularly urgent for students enrolled in the for-profit school sector. *The American Prospect* recently noted that "[f]or-profit schools have little incentive [now] to care whether their students land well-paying jobs; if graduates can't pay back their loans, taxpayers will, because the federal government guarantees the loans." Students enrolled in for-profit schools represent just 10 percent of all postsecondary students in the United States but account for 44 percent of all student-loan defaults. The proposed rule would provide significant protection to students, by sparing them entry into a proven dead-end educational track, while also sparing taxpayers otherwise on the hook for their federal student loans.

We support the approach in the proposed rule, which makes program eligibility under Title IV contingent on median student debt-to-income ratios and repayment rates. Such markers are sound proxies for meaningful preparation for employment and ensuring that students are not incurring unmanageable levels of student loan debt. Those programs that serve their students well will easily pass this review, narrowing the Department's focus to those that fall short on delivering the American Dream.

These proposed protections are particularly important for (1) **students of color**, who represent about half of the undergraduate students in for-profit programs; (2) **low-income students**, who make up 6 in 10 for-profit college students; (3) **women**, who comprise nearly two-thirds of for-profit college undergraduates; and (4) **armed-service members and veterans**, a growing target student body for many of for-profit colleges since the passage of the Post-9/11 G.I. Bill:

- **Minorities**: While most (66 percent) underrepresented minority students attend public colleges, they are disproportionately represented at for-profit colleges. African-American and Hispanic students make up 28 percent of all undergraduates, but they represent nearly half (46 percent) of undergraduates at for-profit colleges.
  - Source: National Postsecondary Student Aid Study 2008
- **Low-Income**: While most (70 percent) low-income students attend public colleges, they are disproportionately represented at for-profit colleges. Sixty-four percent of students attending for-profit colleges have incomes below the median for all students.
  - Source: National Postsecondary Student Aid Study 2008
- **Intersection of Minority and Low-Income Groupings**: At for-profit colleges, low-income and minority undergraduates are about three times more likely to borrow federal student loans, and four times more likely to borrow private student loans, as their counterparts at public or private nonprofit colleges. Eighty-eight percent of students with below-median incomes attending for-profit colleges borrowed federal student loans in 2007-08, compared to 33 percent of those attending public and private nonprofit colleges. Forty-one percent of students with below-median incomes attending for-profit colleges borrowed private (nonfederal) student loans in 2007-08, compared to 12 percent of those attending public and private nonprofit colleges. Eighty-six percent of African-American undergraduates attending for-profit colleges borrowed federal student loans in 2007-08, compared to 29 percent of those attending public and private nonprofit colleges.
  - Source: National Postsecondary Student Aid Study 2008
- **Women**: Women make up almost two-thirds (64 percent) of the undergraduates attending for-profit colleges. The gender imbalance is especially stark at private for-profit colleges of less than two years, where women comprise three out of four (75 percent) of undergraduates. To put this in context, women make up 55 percent of those attending public colleges of all levels and 58 percent of those attending private nonprofit colleges.
  - Source: 2008-09 data from the federal Integrated Postsecondary Education Data System
- **Armed-Service Members and Veterans**: The Senate Health, Education, Labor and Pensions Committee found that 20 for-profit colleges pulled in \$521 million in taxpayer-funded military and veterans tuition assistance in 2010, nearly eight times more than in 2006.



- Source: John Lauerman, *For-Profit Colleges Scam Military for \$521 Million, Report Says*, Bloomberg Newswire, Dec. 9. 2010.

To be clear, the civil and human rights community supports policies that maximize *meaningful* post-secondary educational and *equitable* employment opportunities. Unfortunately, too many for-profit college recruitment practices targeted at vulnerable students appear to sacrifice “quality” college opportunities in favor of “quantity” profits for the institutions. It is worth noting, however, that we do not believe all for-profit colleges are bad actors. The way to separate the wheat from the chaff is to finalize and enforce a vigorous gainful employment rule.

We understand the final comment period has closed. Given that opponents of the rule have asked the Department to retract, delay or weaken the regulation, however, we feel a strong need to communicate our members’ support for a strong regulation. In addition, on behalf of our members that *did* weigh in with the Department during the public comment process, we respectfully request a meeting with you to discuss the benefits of the proposed rule and to reply to claims by opponents.

Finally, as raised by some of our members during the comment period, many stakeholders believe the final rule should be stronger than the draft rule. For example, a number of organizations believe that students – and in particular the more vulnerable and underrepresented students who disproportionately attend for-profit colleges – deserve career education programs that are held to even *higher* standards than those that the Department has proposed. Given that student indebtedness and default rates are on the rise, we believe this is an important first step for the Department to take and one that should be taken immediately.

In closing, we agree with your recent observation that “some bad actors are saddling students with debt they cannot afford in exchange for degrees and certificates they cannot use.” To that end, we applaud the Department for proposing these regulations, which will provide much-needed oversight for career education programs that leave students with little other than burdensome debt and dashed dreams. We encourage the Department to act quickly and decisively and issue a final regulation.

We look forward to hearing back from your office regarding a meeting with members of The Leadership Conference. In order to schedule the meeting, or to discuss any of the points raised in this letter, please contact Dianne Piché, Leadership Conference Senior Counsel, at 202-466-3311.

Thank you for your consideration.

Sincerely,

Wade Henderson  
President & CEO

Nancy Zirkin  
Executive Vice President

February 3, 2011

Page 4 of 4



American Association of University Women  
American Federation of Teachers  
AFL-CIO  
Center for Media and Democracy  
Consumers Union  
Gay Lesbian and Straight Education Network  
Hip Hop Caucus  
Mexican American Legal Defense and Educational Fund  
National Association for the Advancement of Colored People  
National Council of La Raza  
National Education Association  
National Partnership for Women and Families  
National Women's Law Center  
Southeast Asia Resource Action Center  
Southern Poverty Law Center  
United States Student Association

Cc: Sen. Tom Harkin  
Sen. Michael Enzi  
Rep. John Kline  
Rep. George Miller  
Melody Barnes, Director of the Domestic Policy Council  
Gene B. Sperling, Director of the National Economic Council