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H.R. 4283, THE COLLEGE ACCESS AND OPPORTUNITY ACT: ARE STUDENTS AT PROPRIETARY INSTITUTIONS TREATED EQUITABLY UNDER CURRENT LAW?

HEARING

BEFORE THE

COMMITTEE ON EDUCATION
AND THE WORKFORCE
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED EIGHTH CONGRESS

SECOND SESSION

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H.R. 4283, THE COLLEGE COLLEGE ACCESS AND OPPORTUNITY ACT: ARE STUDENTS AT PROPRIETARY INSTITUTIONS TREATED EQUITABLY UNDER CURRENT LAW?

Wednesday, June 16, 2004

U.S. House of Representatives

Committee on Education and the Workforce

Washington, DC

The Committee met, pursuant to call, at 10:30 a.m., in room 2175, Rayburn House Office Building, Hon. John A. Boehner (Chairman of the Committee) presiding.

Present: Representatives Boehner, Petri, Hoekstra, McKeon, Castle, Norwood, Isakson, Platts, Tiberi, Osborne, Kline, Burns, Kildee, Andrews, Hinojosa, McCarthy, Tierney, Wu, Holt, Davis, Grijalva, Van Hollen, and Bishop.

Staff Present: Kevin Frank, Professional Staff Member; Sally Lovejoy, Director of Education and Human Resources Policy; Catharine Meyer, Legislative Assistant; Alison Ream, Professional Staff Member; Deborah L. Samantar, Committee Clerk/Intern Coordinator; Kathleen Smith, Professional Staff Member; Jo-Marie St. Martin, General Counsel; Ellynne Bannon, Minority Legislative Associate, Education; Ricardo Martinez, Minority Legislative Associate, Education; and Alex Nock, Minority Legislative Associate, Education.

Chairman BOEHNER. A quorum being present, the Committee on Education and the Workforce will come to order.

We are holding this hearing today to hear testimony on H.R. 4283, the College Access and Opportunity Act, and the question being, "Are students at proprietary institutions treated equitably under the current law?"

Under the Committee rules, opening statements are limited to the Chairman and ranking Member. If other Members have statements, we will leave the record open until the end of the day. And with that, I would ask unanimous consent for the record to remain open to allow for Member statements and other extraneous material referenced during the hearing this morning to be submitted for the official record.

Without objection, so ordered.

STATEMENT OF HON. JOHN A. BOEHNER, CHAIRMAN, COMMITTEE ON EDUCATION AND TEH WORKFORCE

Good morning to all of you, especially to our witnesses and all of our guests today. We are here to learn more about the issues facing proprietary colleges and universities and examine how current law creates a two-tier system for students seeking a postsecondary education. And I recognize some of the issues we will address today remain open to debate, and I welcome the chance for Members on both sides of the aisle to learn more about how these issues are affecting millions of American students.

I can respect differences of opinion when it comes to finding solutions, but there should be no question today that we have got a problem. There is a problem when schools serving some of the neediest students are treated like second-class citizens. There is a problem when the Federal Government creates incentives for schools to raise tuition or to leave inner cities. And there is a problem when innovation is stifled through outdated regulations.

Today, we ask the question, are students at proprietary colleges or proprietary institutions treated equitably under the current law? And I think the answer is no. And that is why in our bill we are calling for changes. On May 5, Mr. McKeon and I introduced the College Access and Opportunity Act, a bill aimed at expanding college access for low- and middle-income students. Chief among our reform principles is the need to remove barriers in current law preventing some colleges and universities from helping students achieve their higher education goals.

There are three issues in particular I think we would like to learn more about from our witnesses today that affect proprietary schools and their students under current law and areas we reform in the College Access and Opportunity Act. The first is the current dual definition of institution of higher education. Under current law, there are two separate definitions: One a general definition, and one specifically for Title IV eligibility. The State of New York offers an example of how, when all degree-granting institutions are treated equally, a level playing field results in a stronger higher-education system. In New York, there is no distinction between a proprietary school and so-called traditional degree-granting institution. And as a result, all institutions have the same opportunities to serve their students.

More than a year ago, I received a letter from 18 Members of the New York congressional delegation asking that the Federal Government follow suit, treat all degree-granting institutions equitably. A single definition will move us closer to that goal of fair treatment and a level playing field.

Now those who oppose the single definition often claim for-profit organizations should not have access to competitive grant funding. Yet, throughout Federal law, there are numerous examples of grants that are open to both nonprofit and for-profit entities. And I think the chart up on the wall will indicate that. A brief review of these programs shows scores of grants available for for-profit organizations. We found more than 160 examples, including laws under the jurisdiction of this Committee, including the Work Force Investment Act, the Individuals With Disability and Education Act, and No Child Left Behind. It is clear that our exclusion of propri-

etary schools in the Higher Education Act is the exception and not the rule.

The second issue I hope to learn more about today is the 90/10 Rule, which is imposed only on proprietary institutions. This rule, originally with a ratio of 85/15, was put into place as part of the larger effort to reduce the fraud and abuse that plagued the proprietary sector in the 1970's and 1980's. While I do not disagree that this rule was well intentioned years ago, but today, it seems not only unnecessary and ineffective but also potentially harmful to students. The rule requires proprietary institutions to show at least 10 percent of funds are derived from sources outside of Title IV student-aid funding. And while that may not seem like too much to ask, looking closely at this rule shows how burdensome it may be.

Statistics show proprietary schools tend to serve larger populations of needy, high-risk minority and nontraditional students, in other words, the students most in need of financial assistance. Yet when proprietary schools serve a large share of needy students, many of whom rely on Federal aid, the schools compliance with the 90/10 view is put in jeopardy. And if the school breaks this rule, even by a fraction of a percentage point, it loses eligibility to participate in Title IV. This means that the school's students cannot receive Pell Grants, Federal student loans or any other type of Federal aid. Worse still, this rule creates an incentive for proprietary schools to raise tuition or move away from urban areas where students are more likely to depend on Federal aid.

Safeguards against waste, fraud and abuse in our Federal student aid programs are essential. And that is why the College Access and Opportunity Act maintains dozens of effective protections that are in current law today. The list on the screen demonstrates some of the many changes that have taken place over time to increase accountability and maintain the integrity of the student aid programs.

The third and final issue I hope to examine is the rapid growth of distance education and how rules, such as the 50-percent rule, limit access to innovative learning opportunities. Technology has changed dramatically since the last time that we reauthorized the Higher Education Act. Teachers and students today have access to learning tools we could not have imagined just a few short years ago. Yet outdated rules limiting distance education prevents students and schools from making the most of advanced technology.

I would like to share with you a story about Captain Norma Lee Hackney of the U.S. Navy.

[The information referred to follows:]

Statement of Captain Norma Lee Hackney

Chairman Boehner, and Members of the Committee, I am pleased to provide this written statement in support of the provisions of H.R. 4283 that would level the playing field for students attending non-traditional institutions, and in particular those attending distance education institutions.

I am a Captain in the United States Navy. I have had the distinction and honor of being the first woman to command the U.S.S. Saipan, a United States Navy large deck amphibious assault ship, during Operation Iraqi Freedom. The U.S.S. Saipan has capacity for more than 3,000 sailors and marines. It operates a 400-bed hospital, supports a tactical air control squadron and launches marine helicopters from its flight deck.

While at sea, I was able to continue my studies toward a Ph.D. in Capella University's School of Business. I completed course work and participated in course discussions via Internet connection aboard the ship in the evening, at times that did not interfere with my official duties. With remote access to education, I am able to continue my studies without delay or interruption while serving in the military during this important time. I learned of Capella through word of mouth because of its positive reputation in the military community. Fifteen percent of Capella's learners are affiliated with the U.S. Armed Forces.

I am using Title IV funds to help pay for my education. I am fortunate that Capella University is a participant in the U.S. Department of Education's Distance Education Demonstration Program, which provides Capella students access to Title IV funds. Advancing in my education would be significantly more difficult without such access. I understand that, without participation in the Demonstration Program, institutions offering primarily distance education courses are prohibited under the Higher Education Act from participating in Title IV programs, thereby denying their students access to these funds.

I applaud your bill's provisions which set forth the abolishment of distinctions made in Title IV between traditional institutions and non-traditional institutions. I am particularly pleased to learn that H.R. 4283 would eliminate the 50% percent rule that restricts access to funding for students attending distance education institutions. In these complex times and with an inordinate amount of responsibility placed on adults' shoulders, it is so important that the federal government takes steps that will encourage, not dissuade, students to continue their education in whatever environment provides them the most flexibility in their lives. I, for one, would have had considerable difficulty continuing my studies in a classroom setting or without access to Title IV. I know that others in the military, students living in rural communities, and single parents in urban cities around the country share this view.

I appreciate your interest in providing greater access to Title IV for all students and encourage the Committee to approve these provisions as part of H.R. 4283.

Chairman BOEHNER. Her experiences show just how valuable distance education is to Americans facing challenges and unique circumstances as they pursue their higher education.

Captain Hackney is the first woman to command a United States Navy large-deck amphibious-assault ship, specifically the U.S.S. Saipan, during Operation Iraqi Freedom. The U.S.S. Saipan has capacity for more than 3,000 sailors and Marines, operates a 400-bed hospital, supports a tactical air control squadron and launches U.S. Marine Harriers and helicopters from its flight deck.

And while commanding her ship and serving her Nation, Captain Hackney was able to continue her studies toward a Ph.D. through an online education. Through advanced technology, innovative teaching strategies and online tools, students who may never have had the opportunity for a college education are pursuing higher learning through distance education.

Again, we are dealing with antiquated regulations that may have been well-intentioned when put in place but, today, are simply a burden on students pursuing a higher education. So I look forward to a frank and productive conversation about the issues facing this growing sector of American education. At a time when more students than ever are choosing to go to college, millions of adults are interested in going back to school, and changing technology requires workers to train and retrain to compete in a changing marketplace. We should be taking steps to expand access to all sectors of higher education.

And with that, I would like to yield to my friend and colleague, the gentleman from Michigan, Mr. Kildee.

[The prepared statement of Chairman Boehner follows:]

Statement of Hon. John Boehner, Chairman, Committee on Education and the Workforce

Good morning, thank you for joining us today. We're here to learn more about the issues facing proprietary colleges and universities and examine how current law creates a two-tiered system for students seeking a postsecondary education. I recognize some of the issues we'll address today remain open to debate, and I welcome the chance for Members on both sides of the aisle to learn more about how these issues are affecting millions of American students.

I can respect differences of opinion when it comes to finding solutions, but there should be no question today that we have a problem. There is a problem when schools serving some of the neediest students are treated like a second class. There is a problem when the federal government creates incentives for schools to raise tuition or leave inner cities. And there is a problem when innovation is stifled through outdated regulations. Today we ask the question, "Are students at proprietary institutions treated equitably under current law?" I think the answer is no, and it is time for a change.

On May 5, Buck McKeon and I introduced the College Access & Opportunity Act, a bill aimed at expanding college access for low and middle-income students. Chief among our reform principles is the need to remove barriers in current law preventing some colleges and universities from helping students achieve their higher education goals.

There are three issues in particular I'd like to learn more about from our witnesses that affect proprietary schools and their students under current law, and areas we reform in the College Access & Opportunity Act. The first is the current dual definition of institution of higher education. Under current law, there are two separate definitions; one general definition and one specifically for Title IV eligibility.

The state of New York offers an example of how, when all degree granting institutions are treated equally, a level playing field results in a stronger higher education system. In New York, there is no distinction between proprietary and so-called "traditional" degree granting institutions, and as a result, all institutions have the same opportunities to serve their students. More than a year ago I received a letter from 18 members of the New York congressional delegation—including Mrs. McCarthy on this committee—asking that the federal government follow suit and treat all degree granting institutions equitably. A single definition will move us closer to that goal of fair treatment and a level playing field.

Those who oppose a single definition often claim for-profit organizations should not have access to competitive grant funding. Yet throughout federal law there are numerous examples of grants that are open to both non-profit and for-profit entities.

A brief review of these programs shows scores of grants available to for-profit organizations. We found more than 160 examples, including laws under the jurisdiction of this committee, including the Workforce Investment Act, the Individuals with Disabilities Education Act, and the No Child Left Behind Act. It's clear our exclusion of proprietary schools in the Higher Education Act is the exception, and not the rule.

The second issue I hope to learn more about is the 90/10 Rule, which is imposed only on proprietary institutions. This rule, originally with a ratio of 85/15, was put into place as part of a larger effort to reduce the fraud and abuse that plagued the proprietary sector in the 1970s and 1980s. While I don't disagree that this rule was well intentioned years ago, today it seems not only unnecessary and ineffective, but also potentially harmful to students.

The rule requires proprietary institutions to show at least 10 percent of funds are derived from sources outside of Title IV student aid funding. While this may not seem like too much to ask, looking closely at this rule shows just how burdensome it may be. Statistics show proprietary schools tend to serve larger populations of needy, high-risk, minority, and non-traditional students. In other words, the students most in need of federal assistance.

Yet when a proprietary school serves a large share of needy students, many of whom rely on federal aid, the school's compliance with the 90/10 Rule is put in jeopardy. And if a school breaks this rule, even by a fraction of a percentage point, it loses eligibility to participate in Title IV. This means the school's students cannot receive Pell Grants, federal student loans, or any other federal student aid. Worse still, this rule creates an incentive for proprietary schools to raise tuition or move away from urban areas where students are more likely to depend on federal aid.

Safeguards against waste, fraud, and abuse in our federal student aid programs are essential, and that is why the College Access & Opportunity Act maintains dozens of effective protections in current law. The list on the screen demonstrates some

of the many changes that have taken place over time to increase accountability and maintain the integrity of the student aid programs.

The third and final issue we'll examine is the rapid growth of distance education, and how rules such as the 50 percent rule limit access to innovative learning opportunities. Technology has changed dramatically since the last time we reauthorized the Higher Education Act. Teachers and students today have access to learning tools we could not have imagined just a few short years ago. Yet outdated rules limiting distance education prevent students and schools from making the most of advanced technology.

I would like to share with you the story of Captain Norma Lee Hackney of the U.S. Navy. Her experiences show just how valuable distance education is to Americans facing challenges and unique circumstances as they pursue higher education.

Captain Hackney is the first woman to command a United States Navy large deck amphibious assault ship, specifically the U.S.S. Saipan during Operation Iraqi Freedom. The U.S.S. Saipan has capacity for more than 3,000 sailors and marines, operates a 400-bed hospital, supports a tactical air control squadron, and launches U.S. Marine harriers and helicopters from its flight deck. While commanding her ship, and serving her nation, Captain Hackney was able to continue her studies toward a Ph.D. through online education.

Through advanced technology, innovative teaching strategies, and online tools, students who may never have had the opportunity for a college education today are pursuing higher learning through distance education. Again, we're dealing with antiquated regulations that may have been well intentioned when put into place, but today are simply a burden on students pursuing higher education.

I look forward to a frank and productive conversation about the issues facing this growing sector of higher education. At a time when more students than ever are choosing to go to college, millions of adults are interested in going back to school, and changing technology requires workers to train and retrain to compete in a changing marketplace, we should be taking steps to expand access to all sectors of higher education. With that, I will now yield to Mr. Miller for his opening statement.

STATEMENT OF HON. DALE KILDEE, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF MICHIGAN

Mr. KILDEE. Thank you, Mr. Chairman.

I join you in welcoming the witnesses before the Committee today.

I want to especially welcome David Moore, CEO of Corinthian Colleges. David and I have known each other for many years, dating back to when he was the head of the community college in Flint, Michigan. Before that, he spent time in the military.

And David, it is good to have you, always.

Mr. Chairman, I do not fully agree with the changes made by H.R. 4283 with respect to proprietary schools. The bill, in its current form, would fundamentally change some of the most significant statutory provisions which ensure accountability for Federal higher-education funding. These changes could hinder rather than improve access to postsecondary education.

But before I get into some of the issues with this legislation, I do want to acknowledge the important role that proprietary institutions do play. Many students—we know in this Committee, I certainly know—would not be able to access the educational courses they need without proprietary institutions. They play a very important and essential role in the total spectrum of higher education. Flexible scheduling and innovative course offerings are key elements that the proprietary sector has brought to postsecondary education. Opposition to some of the changes made by H.R. 4283 should not be viewed as an opposition to proprietary schools in general. Rather, the role the schools play is essential to ensuring that all students have access to that postsecondary education. And in

my 28 years here in Congress, I have worked closely with proprietary schools during my tenure.

Unfortunately, H.R. 4283 does raise some issues of concern. H.R. 4283 repeals the 90/10 Rule. As I have said before, rather than repeal, we should examine what problems the 90/10 Rule is causing. How many schools are presently close to the 90 percent limit? What limitations does this rule actually place on schools? H.R. 4283 repealing the 90/10 Rule, these questions have not been satisfactorily answered. Rather than repeal, we should be examining perhaps a meaningful compromise on these issues that addresses these problems.

And Mr. Moore and I have discussed—I think you have two colleges in Georgia, one of which would have a very high Pell Grant status or numbers through the Pell Grants. And I am certainly willing to discuss that with you to see whether we can arrive at some type of formula for a school with a large number of Pell Grant students where we could waive that 90/10 Rule in the compromise that Mr. Miller and I have suggested.

H.R. 4283 also establishes a single definition of an institution of higher education. This, I fear, would actually reduce the amount of aid presently going to minority-serving institutions. All of us, both Republicans and Democratic Members, have worked to raise funding for minority-serving institutions. This provision would only set us back on these efforts.

H.R. 4238 would also repeal the 50-percent rule. Congressman Andrews and I introduced a legislation earlier this year to eliminate the 50-percent rule in exchange for additional fiscal and academic responsibility through the accreditation process. This bill does not include the provisions from the Andrews legislation and therefore, I think, lacks sufficient safeguards for the expansion of distance education.

But I certainly feel that expansion is in order, with the proper safeguards. I think it is—we have to recognize that new technology that exists out there, and it is a very positive thing for education.

In addition to these issues, this bill has other significant issues of concern. The bill's repeal of the low fixed rate for consolidation loans would translate into thousands in additional interest costs for students.

The bill also caps the maximum Pell Grant, sending the message that we should limit future resources for this critical program. I can recall in the last reauthorization, with Mr. McKeon in 1998, President Clinton used greatly the increase in the Pell Grants and increased the Pell Grants significantly. And they have not been increased significantly much since then. I think Mr. Bush raised them $250 the first year and then another $50. And it has been $50, straight level, funding that increase ever since. So I think leaving room for the President can be significant, as it was in the 1998 reauthorization.

In closing, I would like to point out that our colleague, Ms. Waters from California, requested to testify at this hearing. To my knowledge, her office did not receive a response to her request. I would hope that the Committee would provide an opportunity for Ms. Waters to be able to present her views on this matter. I believe

her testimony would be especially useful to our conversation, given that she was the author of the original 85/15 provision.

And I thank you, Mr. Chairman, and look forward to working with you.

And I assure all of you that this is a work in process, and hopefully, when we are finished with this, we will all be happy and be able to deliver the services to the students of this country.

Thank you, Mr. Chairman.

Chairman BOEHNER. To clarify the record, we had extensive conversations with Ms. Waters' staff, but there was—we already had our panel set, and it was our decision not to have two panels. And she and her staff were in fact informed of that.

Secondly, I would point out that the change in interest rates the gentleman from Michigan stated that students would be paying, could be paying higher rates when they start to repay those. And I would remind the gentleman that the students are people who are in school. Those who are repaying those would be out of school, and I would suggest that we should refer to them as graduates.

With that, we are pleased to introduce our distinguished panel of witnesses, and to introduce our first witness, let me call on my colleague from Columbus, Ohio, Mr. Tiberi.

Mr. TIBERI. Thank you Mr. Chairman. It is a pleasure for me to introduce a constituent of mine, Mr. Dwight Smith, who is currently the president and CEO of Sophisticated Systems, Inc. in Columbus and a company that provides system integration and consulting that specializes in providing integrated solutions for its clients' system requirements.

On a personal note, Mr. Smith is chairman of the Board of Columbus State Community College in Columbus and is here today representing DeVry because, as an employer, he has employed many of the students of a proprietary school in my congressional district.

I know you have a plane to catch, and so without further ado, thank you for being here today. We really appreciate your time.

Chairman BOEHNER. Our second witness today will be Mr. Andrew Rosen. Mr. Rosen currently serves as president and chief operating officer of Kaplan Incorporated, a broadbased provider of educational services, including test preparation, K-through–12 services for students in schools and post-secondary education and professional training. Mr. Rosen also serves as president and CEO of Kaplan College, a regionally accredited degree-granting institution.

And then we will hear from Dr. Alice Letteney. Dr. Letteney currently serves as director of the University of New Mexico, Valencia. Dr. Letteney was one of the founding faculty members at Quinebaug Valley Community College in Connecticut. She has also served as dean of academic affairs and executive dean of academic and student affairs at community colleges in Pennsylvania and Massachusetts.

We will then hear from Mr. Barmak Nassirian. Mr. Nassirian has been active in higher education policy for over a decade and currently serves as associate executive director of the American Association of Collegiate Registrars and Admissions Officers, a nonprofit voluntary professional association of more than 9,000 higher

education admissions and registration professionals who represent 2,300 institutions in more than 35 countries.

And then we will hear from Mr. David Moore. Mr. Moore is one of the founders of Corinthian Colleges and serves as chairman and CEO of Corinthian Colleges. Previously, Mr. Moore served as president of the DeVry Institute of Technology in Los Angeles. Prior to that position, Mr. Moore was employed by Mott Community College in Flint, Michigan, where he was president from 1984 through 1992.

We want to thank all of our witnesses for your willingness to come and testify today. I am sure that the staff has explained the lights to you; 4 minutes on green, 1 on yellow. Red means you should be wrapping up. We are pretty lenient around here, as long as you do not get too carried away.

So with that, Mr. Smith, we would love to hear your testimony.

STATEMENT OF DWIGHT SMITH, PRESIDENT & CEO, SOPHISTICATED SYSTEMS, INCORPORATED, COLUMBUS, OHIO

Mr. SMITH. Thank you. Thank you, Chairman and Members of the Committee.

My name is Dwight Smith, and I am the president and CEO of Sophisticated Systems, an IT consulting firm founded in Columbus, Ohio, some 14 years ago. It is my pleasure to have the opportunity to speak with you today as an employer of proprietary school graduates and to share my perspective on how these schools are serving a critical role in educating technology workers that employers need in today's knowledge-economy.

The United States has no greater opportunity with America's current and future generations than to educate our citizens and create a competitive work force. My comments today are limited to a statement of which I firmly believe that every citizen should have equal access to the postsecondary education that best meets his or her educational needs.

I founded Sophisticated systems in 1990, and we quickly became recognized as a leader in the business community in Columbus. We have offices in Columbus and Dayton. We currently serve clients in Cincinnati, Chicago, Wilmington Delaware and Detroit. We are an $18 million firm that provides IT consulting services to a number of organizations, including The Limited, Bank One, the State of Ohio and the U.S. Federal Government. We currently employ 90 employees and have nearly 40 contractors on our staff.

In order to achieve our success, we need to employ individuals with the appropriate technology and business skills that will help our clients address their needs. These graduates are very hard to find. We look for graduates with bachelors degrees and skills that not only include a technical aptitude but also the ability to work in teams to provide solutions to complex problems.

One of the institutions that consistently provides us with high-quality candidates and graduates would be DeVry University. We currently employ five graduates of this great institution and, in the past, have employed many more. Many of our graduates have been hired on as—hired on by our clients in key positions and at least one has left our organization, utilizing his education at DeVry and the experience gained at Sophisticated to go out and start his own

business. We have considered DeVry graduates for all entry-level positions and hire these graduates because of their ability to be productive day one, not only because of their technical skills but the problem-solving skills that they acquire at this organization.

I would like to share with you some examples of some of the graduates that we have hired from this organization and how they have contributed to our success at Sophisticated Systems. First I would like to mention a gentleman by the name of Troy Stevens. Troy joined us, after graduating from DeVry in 1999, as a business analyst, assisting our clients with requirements definition and design. He later supported our e-business practice and, last year, was promoted to a very key position of business development manager. In this role, Troy reports directly to our chief operating officer and is responsible for leading all major proposal efforts and establishing key strategic alliances with firms such as Deloitte, Unisys and CDW. Our firm is continuing to win significant opportunities based on Troy's outstanding leadership in this area. Again, Troy is a DeVry graduate.

Next is Harold Ransom, an African-American gentleman who joined our firm in 1998 as a PC technician and was later promoted to network engineer. Two years ago, Harold assumed a lead role in our firms outsourcing contract with the Columbus Area Chamber of Commerce. Following two 1-year contracts with this important client, in December of 2003, the Chamber signed a 3-year agreement with our firm to continue this outsourcing agreement. In signing this agreement, they expressed great excitement and enthusiasm that Harold would continue to lead this effort. The Chamber, as a result of his commitment to quality and expertise, continues to be one of our finest references.

My final example is Siu Li. Siu is also a graduate of DeVry and joined our company as a result of an acquisition in 2000. Siu is a web developer and has developed and supported more client engagements and this type of work than any other consultant in our firm. That aside, Siu's creativity and values bring a great deal to our company in another area. Our company is very committed to our community and to giving back.

Several years ago, Siu had a vision that a team from our company should travel to a local shelter and serve meals to the less fortunate people in our community. Since that time, Siu has organized a trip on a monthly basis, without fail, and led a team. And we have served many, many thousands of meals over that time. Again, a great DeVry graduate with great business contributions to the company as well as a contribution to our mission as it pertains to serving our community.

Clearly, with people like Troy, Siu and Harold on our team, I think you can understand why our company has achieved such great success. One of the reasons is that these employees have received an outstanding education at DeVry. What greater public good can there be than educating and preparing Americans for future—for what the future promises.

We are facing increasing competition in the global marketplace, and like so many other businesses today, the education and training of our current and future work force is key to our ability to be successful in the future. I am not an education policy expert but

rather a CEO and very dependent upon the end product of education. I need and want quality education. I need and want the quality education that is provided by schools such as DeVry and proprietary institutions. When hiring an employee, I look to see that the applicant has the skills that can meet and improve the needs of our company. It seems to me that the objective should be of education policy also that any education institution that is accredited and meets all the necessary standards and is improving the quality of graduates is making our Nation stronger and providing a great benefit to the public.

Thank you Chair and to the Committee.

[The prepared statement of Mr. Smith follows:]

Statement of Dwight Smith, President & CEO, Sophisticated Systems, Inc., Columbus, Ohio

Mr. Chairman, Mr. Miller and members of the committee, my name is Dwight Smith and I am the President and CEO for Sophisticated Systems, Inc. (SSI), an I/T consulting firm founded in Columbus, Ohio some fourteen years ago. It is my pleasure to have the opportunity to speak to you today as an employer of proprietary school graduates and to share with you my perspective on how proprietary schools are serving a critical role in educating and providing the technology workers employers need in today's knowledge economy. The United States has no greater opportunity with America's current and future generations than to educate our citizens and create a competitive workforce. My comments today are limited to a statement of my firmly held belief that every citizen should have equal access to the postsecondary education that best meets his or her educational goals.

I founded SSI in 1990 and it has quickly become a recognized member of the central Ohio business community. We have opened branches in Columbus and Dayton supporting clients in these areas as well as Cincinnati, Detroit, Chicago, and Wilmington, Delaware. SSI was listed among the Columbus Fast Fifty for five consecutive years (1996–2001) denoting it as one of the fastest growing businesses in central Ohio. In addition the company has been included in Inc. Magazine's list of the nation's 500 fastest growing businesses on two separate occasions. We are an 18 million dollar company that delivers professional services that include staff augmentation as well as the design, development, implementation and support of computer applications and systems. We have experience and expertise in all phases of the application development process, Wide-area and local-area network design, installation and support, PC and server deployment, and general computer and technology consulting services. To ensure complete end-to-end solutions, we provide the related hardware and software products necessary to implement computer solutions. SSI employs approximately 90 employees as well as nearly 40 subcontractors. Our customers include Nationwide Insurance, State of Ohio, The Limited, Bank One, Columbus Public Schools, The Columbus Area Chamber of Commerce and Wright Patterson Air Force Base.

In order to achieve our success, we need to employ individuals with the appropriate technology and business skills that will help our customers achieve their goals. These types of graduates are hard to find. There continues to be a shortage of workers with the requisite skills to complete in the knowledge economy. We look for graduates with bachelor's degrees and skills that not only include technical aptitude, but also the ability to work in teams to provide solutions to complex problems. Technology continues to be infused in today's workforce and the technology itself is continually improving. So, our employees also must have the desire to participate in life long learning, so we, as a company, can continue to meet the changing needs of our customers.

One of the institutions of higher education that consistently produces these quality graduates is DeVry University. SSI currently employs five DeVry graduates and in the past we have employed many, many more. Some of these individuals have been hired into key positions at our client sites while at least one has started his own business utilizing both the technical and business skills that he acquired at DeVry as well as experience gained at Sophisticated Systems. One of the things that impress me about DeVry is that they are one of the top producers of minority graduates. We have considered DeVry graduates for all entry-level openings and hire DeVry graduates because they have the ability to be productive their first day on the job, and because they not only have the technical skills but also the teamwork

and problem solving capabilities to continue to build relationships with our customers. I have interviewed graduates from public, private, non-profit and for-profit institutions, and I believe that our goal is to hire an individual with the appropriate qualifications and education—it does not matter to me whether the student attended The Ohio State University, Case Western Reserve University, or DeVry University—just as long as they have the skills we need to meet our business goals.

I would like to give you few examples of some of our DeVry graduates and how they have contributed to the success of SSI.

Troy Stevens joined Sophisticated Systems in 1999 as a Business Analyst assisting our clients with requirements definition and solution design. He later supported our E-business practice and last year was promoted to Business Development Manager. In this role, Troy reports directly to our Chief Operations Officer and is responsible for leading all major proposal efforts and establishing key strategic relationships for the firm including with large international companies such as Deloitte, Unisys, and CDW. Our firm is continuing to win significant opportunities due, in large part, to Troy's outstanding leadership abilities.

Harold Ransom joined our team in 1998 as a PC Technician and later was promoted to Network Engineer. Two years ago Harold assumed the lead role in our firm's outsourcing contract with The Columbus Area Chamber of Commerce. Following two successful one-year contracts with this important client, the Chamber, in December 2003 signed a new three- year agreement with Sophisticated Systems. In signing this agreement, they expressed great excitement and enthusiasm that Harold would continue to lead this effort. The Columbus Chamber, as the result of Harold's commitment to quality and expertise, continues to be one of our company's finest references.

Judy Hardina joined our team in 2000. Judy is responsible for all hardware/software sales for the organization. She has established strong relationships not only with our clients but also manufacturers and distributors such as IBM, H–P, Dell and Cisco. Her results to date have been absolutely amazing, so much so that it is likely that by the end of this month Judy will exceed our projections for sales in this key area for the business for the entire year. I receive unsolicited feedback from our clients on a regular basis that can be summarized as "people do business with our company because of the professionalism exhibited by Ms. Hardina."

My final example is Siu Li. Siu joined our company as the result of an acquisition in 2000. Sui is a web developer and has developed and supported more client engagements for this type of work than any other consultant in the firm. That aside, Siu's creativity and values bring a great deal to the company in another area. Sophisticated Systems is very committed to supporting our community—"giving back". Several years ago Siu had an idea, a vision, that a team from the company should travel to a local shelter and serve meals to the less fortunate in our community. Since that time Sui has organized this trip, without fail each month. During this time our team, led by Sui has served thousands and thousands of meals to homeless members of our community.

Clearly with people like Troy, Harold, Judy, and Siu on our team I believe you can understand why our company has been blessed with such success.

One of the reasons these employees are successful is the education they received at DeVry. What greater public good can there be than educating and preparing Americans for promising futures? We are facing increasingly tougher competition in the global marketplace and, like so many other businesses today, the education and training of my current and future workforce is the key to my company's competitiveness and future growth. More than ever, we need to promote and reward success in the areas of workforce education and training. If an institution is doing a good job of preparing students and providing businesses with quality employees, this is clearly in the nation's interest.

I am not an education policy expert, but as a CEO, much of my success depends upon the end product of the education process. I want and need quality employees whose education and training allow them to adapt and keep pace with technological and marketplace developments. When hiring an employee, I look for a skilled applicant that can meet my needs and improve my company. It seems to me this ought to be the objective of our education policy as well. Any qualified and accredited institution that meets all the necessary standards and is producing quality graduates is making our nation stronger and providing public benefit.

If I have a superb employee, I look for ways to give that employee more responsibility. If I have a product or service that is in demand, I find a way to increase production. If there is a school that is producing graduates that are performing well and strengthening our workforce, then we should make it possible for that institution to do more of whatever it is that they are doing with such success.

Thank you, Mr. Chairman, for this opportunity to share my experiences, as an employer, and to offer my thoughts on the contributions proprietary postsecondary schools, such as DeVry, make towards helping employers find quality employees.

Chairman BOEHNER. Thank you.

Mr. Rosen.

STATEMENT OF ANDREW S. ROSEN, PRESIDENT AND CHIEF OPERATING OFFICER, KAPLAN, INC., AND PRESIDENT, KAPLAN COLLEGE

Mr. ROSEN. Mr. Chairman, Members of the Committee, it is an honor for me to appear before you today to discuss equity issues pertaining to students at proprietary postsecondary institutions. I am Andrew Rosen, president and chief operating officer of Kaplan, Inc. I also serve as president of Kaplan College.

Kaplan, Inc. is a wholly owned subsidiary of the Washington Post Company. Many of you know Kaplan's roots in test preparation. But we have expanded well beyond test prep to help individuals achieve their educational and career goals throughout their lives. Kaplan's postsecondary education involvement includes 67 accredited brick-and-mortar schools in 16 States that offer bachelors, associate and certificate programs. Those schools include Kaplan College in Davenport, Iowa, which is regionally accredited and anchors Kaplan College Online.

Kaplan College is one of the original participants in the U.S. Department of Education Distance Education Demonstration Program. Because of that, we are exempt from the 50-percent rules. Kaplan's on-ground and online students are nontraditional with an average age of 38. The majority of our students are women, more than half identify themselves as racial or ethnic minorities and, at our on-ground schools, approximately 60 percent qualify for Pell Grants. About one-third of our online population is eligible for Pell Grants. Most of our online students are adults with families, and many are working single parents. For them, online education is the only way to advance their careers and better provide for their families.

Kaplan College Online has 11,000 students working toward associate and bachelors degrees in business, information technology, criminal justice and paralegal studies. Every student at Kaplan College Online has ongoing relationships with faculty and a personal academic advisor.

The requirement that, to be eligible for Federal financial aid, institutions must keep online courses to less than 50 percent of the total courses offered and students enrolled is anachronistic. The 50-percent rules hinder the power of distance learning.

We are pleased that H.R. 4283, the College Access and Opportunity Act of 2004, recognizes this reality and takes significant steps toward more equitable treatment for online education. I would also like to acknowledge the efforts made toward this goal by Members on both sides of the aisle. Because of that broad support, I am confident that, as part of reauthorization, Congress will update the laws that govern access to Federal student aid for online learners to better reflect the needs of 21st century learners.

Mr. Chairman, I will touch briefly on three other areas that treat students at for-profit schools inequitably that are resolved in your bill. The requirement that proprietary schools obtain at least 10 percent of their revenues from sources other than Federal student aid has become a disincentive for companies to serve the neediest students who receive the most Federal aid. We applaud your decision to eliminate the 90/10 Rule as part of H.R. 4283.

The College Access and Opportunity Act of 2004 also addresses transfer of credit, which is another equity issue for students at proprietary schools. Too often our students at nationally accredited schools are unable to transfer credits for their courses simply because the sending school is not regionally accredited. H.R. 4283 maintains institutions' academic freedom while insuring that decisions on credit transfers are based on course content rather than on the nature of the accreditor.

H.R. 4283 also provides for a single definition of an educational institution. In an era when more than 1 million students per year enroll in private career colleges, it is time that the Federal Government stopped relegating them to second-class status. As a matter of equity and sound public policy, the single definition is appropriate.

Nontraditional students have different needs and circumstances than the high school graduate who continues immediately with postsecondary education. Our students go to school year-round. Their need for financial aid does not take a summer vacation. I am pleased that your bill acknowledges this need by establishing a pilot program for year-round Pell Grants.

Mr. Chairman, you have also asked me to assess the potential for increased fraud and abuse resulting from provisions in H.R. 4283. The only way to maintain the long-term health and representations of our companies is by providing quality instruction and training and building enduring institutions. In addition, for-profit postsecondary education has multiple reporting requirements at both the Federal and State levels. The legislative changes you propose leaves most of these requirements in place.

I would like to close my testimony by telling you about Christine Forestire, a recent graduate of Kaplan College Online who is here today. Christine lives in upstate New York and commutes 2 hours each way into Manhattan to work. She had an associates degree and no means of continuing her education anywhere near her home. She became a student at Kaplan College Online.

On September 11, 2001, Christine was about to go to her office on the 45th floor of Tower Two of the World Trade Center. She was shopping and never got in the elevator and ran when the building shook violently. She watched from a nearby restaurant as the second plane hit the other tower. Eight of Christine's coworkers were killed.

Without any prodding, without any of my knowledge, our staff at Kaplan College Online immediately followed up with Christine to be sure she was all right, including her admissions counselor. Her teachers were very supportive, and rather than abandoning her studies because of the tragedy, Christine focused even more on her studies.

Christine now works at a law firm in Manhattan and graduated in December with a bachelor's degree in management. She has a bright future ahead of her because online education made it possible for Christine to reach her goals.

Christine, I would like to ask you to rise for a moment. Thank you, Christine, and congratulations.

Mr. Chairman, I would be pleased to answer any questions you or any other Member may have. Thank you.

[The prepared statement of Mr. Rosen follows:]

Statement of Andrew S. Rosen, President & COO, Kaplan, Inc., and President, Kaplan College, Boca Raton, Florida

Mr. Chairman, Other Members of the Committee:

It is an honor for me to appear before you today to discuss equity issues pertaining to students at for-profit postsecondary institutions. I am Andrew Rosen, President and Chief Operating Officer of Kaplan, Inc. I also serve as President of Kaplan College. Kaplan Inc. is a wholly owned subsidiary of The Washington Post Company, a media and education company. As many of you know, Kaplan's roots are in test preparation, and we have expanded beyond those origins to help individuals achieve their educational and career goals throughout their lives. We still offer test preparation for college admission, graduate school, and beyond. In addition, Kaplan K12 Learning Services provides supplemental education services as part of the No Child Left Behind law. SCORE! Education Centers offer both enrichment and supplemental education programs. Our Kaplan Professional division offers continuing education and certification studies in financial services, insurance, home inspection, architecture, and real estate.

Kaplan's postsecondary education involvement includes 67 accredited brick-and-mortar schools in 16 states that offer bachelor's, associate, and certificate programs. We also have Concord Law School, which is online and is the second-largest part-time law school in the country.

My focus with you today are the postsecondary students at our 67 on-ground schools, as well as those who study online through Kaplan College Online. All are non-traditional students, with an average age of 38. The majority of our students are women, more than half identify themselves as racial or ethnic minorities, and at our on-ground-schools, approximately 60 percent qualify for Pell Grants. About one-third of our online population is eligible for Pell Grants.

One of our on-ground schools is Kaplan College in Davenport, Iowa, which is accredited by the Higher Learning Commission of the North Central Association of Colleges and Schools, and anchors Kaplan College Online. Kaplan College is one of the original participants in the U.S. Department of Education's Distance Education Demonstration Program. Because of that, we are exempt from the 50 percent rules, which would otherwise subject education and training delivered online to rules drafted for correspondence programs.

Mr. Chairman, we believe that the reauthorization of the Higher Education Act presents an unprecedented opportunity to ensure that quality education and training options are available to all motivated students. Most of our online students are adults with families, and many are working single parents. They are eager to improve their education at times that traditional classroom learning would not be an option because of their job and family responsibilities. For them, online education is the only way to advance in their careers and better provide for their families.

The world has changed, and in order to advance economically, postsecondary education is now a requirement. Ensuring that students have access to the education that meets their needs will ensure the continued economic security of our Nation. Recognizing that, the U.S. Chamber of Commerce has formed the Coalition for a Competitive Workforce, of which Capella University, Corinthian Colleges, DeVry, Inc., and Kaplan are founding members.

Kaplan also belongs to the Career College Association, whose members educate and train one million students each year for employment in some 200 occupational fields.

Kaplan College Online has over 11,000 students working toward associate and bachelor degrees, and another 4,500 who are in the school of continuing education, which offers non-credit certificate programs. We offer degree programs in business, information technology, criminal justice, and paralegal studies. Areas of study for continuing education include forensic nursing and legal nurse consulting, financial planning, and life care management.

In Kaplan's experience, effective online learning requires more faculty-student interaction, not less, particularly for longer or more complex programs. Our online faculty and administrators make an effort to get to know their students and make themselves available to students at all hours. Every student enrolled in Kaplan College Online has an academic advisor.

The requirement that to be eligible for federal financial aid, institutions must keep online courses to less than 50 percent of the total courses offered and students enrolled is anachronistic to the realities of 21st century learning. The 50-percent rules hinder the power of distance learning. We are pleased that HR 4283, the College Access and Opportunity Act of 2004, recognizes this reality and takes significant steps toward more equitable treatment for online education.

I would also like to acknowledge other efforts made toward this goal by Members of this Committee on both sides of the aisle. Because of that broad support, I am confident that as part of reauthorization, Congress will update the laws that govern access to federal student aid for online learners to better reflect the needs of 21st century learners.

Mr. Chairman, I will touch briefly on three other areas that treat students at for-profit schools inequitably and that are resolved in your bill. The requirement that proprietary schools obtain at least 10 percent of their revenues from sources other than federal student aid funds had understandable origins. However, today's responsible for-profit schools are integral components of the higher education system in our country. Yet the 90/10 provision remains in effect and has become a disincentive for companies to serve the neediest students who would receive the most federal aid. The rule is also administratively burdensome. We would prefer to redirect resources to counseling and serving students, instead of minutely tracking each school's percentage of federal funding. We applaud your decision to eliminate the 90/10 Rule as part of HR 4283.

The College Access and Opportunity Act of 2004 also addresses transfer of credit, which is another equity issue for students at proprietary schools. Too often, our students at nationally accredited schools are unable to transfer credits for their courses simply because the sending school is either not regionally accredited or is not accredited by the same regional agency. HR 4283 strikes the right balance, maintaining institutions' academic freedom, while ensuring that decisions on credit transfers be based on course content rather than on the nature of an accreditor.

HR 4283 also provides for a single definition of an educational institution. In an era when more than one million students per year enroll in private career colleges, it is long past time that the federal government should have ceased relegating them to second-class status. As a matter of equity and sound public policy, the single definition makes sense.

As I indicated earlier in my testimony, non-traditional students have different needs and circumstances than the high school graduate who continues immediately with postsecondary education. Our students go to school year-round; their need for financial aid to pursue their studies does not take a summer vacation. I am pleased that your bill acknowledges this need by establishing a pilot program for year-round Pell Grants. We look forward to working with you to fine-tune the proposal in the best interests of our students.

Mr. Chairman, you have asked me to assess the potential for increased fraud and abuse resulting from provisions in HR 4283. I recognize that some Members of this Committee remember the days when unscrupulous operators left a trail of disappointed students and debts to the federal Treasury. The changes in the law passed by Congress weeded out those bad actors. The for-profit industry, including online institutions, has matured, and those of us in this business recognize that the only way to maintain the long-term health and reputations of our companies is by providing quality instruction and training. Competition has made our traditional colleges and universities the envy of the world, and it is having the same impact with private sector education. In addition, our students are more sophisticated and have learned to shop for value, and that carries over to their education and training needs.

For-profit postsecondary education has multiple reporting requirements at both the federal and state levels. The legislative changes that I have outlined in the interests of better public policy and improved service to students will still leave most of those requirements in place. I have no doubt that scrutiny of our sector will continue, and that we will pass and thrive as students continue to turn toward quality, cost-effective programs to help them achieve their career goals.

I would like to close my testimony by telling you briefly about Christine Forestire, a recent graduate of Kaplan College Online. Some of you met her in February when she was honored by the Career College Association as an outstanding graduate.

Christine lives in upstate New York and commutes two hours each way into Manhattan to work. She had an associate's degree and no means of continuing her education anywhere near her home. She became a student at Kaplan College Online. She usually took one course at night and another on weekends, using her commuting time and part of each weekend to study.

On September 11th, 2001, Christine had stopped to do some shopping on the concourse level of the World Trade Center, prior to taking the elevator to her office on the 45th Floor of Tower Two, where she would otherwise normally have been before 8:30 a.m. She never got in the elevator, but ran from the building when what sounded like a giant bomb shook the tower. She ran to a nearby restaurant and while waiting to use a pay phone, watched television coverage, seeing the second plane hit the other tower. Eight of Christine's co-workers were killed, and she never again saw a commuter friend who traveled with her daily.

Without my knowledge or any prodding, our staff at Kaplan College Online followed up with Christine to make sure she was all right, including her admissions counselor. Her teachers were very supportive, and rather than abandoning her studies because of the tragedy, Christine focused even more on her studies, to take her mind off what had happened.

Christine works at a law firm in Manhattan and graduated in December with a Bachelor's degree in management, with a concentration in information technology. She has a bright future ahead of her, because online education made it possible for Christine to reach her goals.

Mr. Chairman, I would be pleased to answer any questions you and other Members may have.

Chairman BOEHNER. Thank you Mr. Rosen.

Dr. Letteney.

STATEMENT OF ALICE LETTENEY, PH.D., EXECUTIVE DIRECTOR, UNIVERSITY OF NEW MEXICO-VALENCIA, LOS LUNAS, NEW MEXICO, ON BEHALF OF THE AMERICAN ASSOCIATION OF COMMUNITY COLLEGES

Dr. LETTENEY. Good morning Chairman Boehner and Members of the Committee.

My name is Dr. Alice Letteney, and I am the executive director of the University of New Mexico, Valencia campus, an HSI that serves 1,700 credit and 7,000 noncredit students in rural New Mexico. I am pleased to be here today representing the American Association of Community Colleges comprised of 1,173 public, private and proprietary colleges who enroll over 11 million credit and noncredit students all across this country.

AACC's leadership and representation on these issues accurately reflect the policy positions of our members. I have been asked to address proprietary school and program integrity issues in H.R. 4283 today. AACC cannot support this key bill at this time largely because of these issues.

AACC appreciates the role of for-profit colleges in providing career education and training and has always supported giving proprietary school students Federal financial aid. However, the community college role is different from that of for-profit. We are open admissions colleges, providing a wide range of programs from adult basic education, remediation, college transfer to technical and career education. For-profits generally focus more narrowly on career education.

AACC strongly opposes the single definition which would make roughly 4,000 for-profit colleges eligible for all HEA programs and would result in a sure and swift funding cut for our colleges. We can perhaps live with an HEA bill that has no new money. But we cannot accept less old money. The single definition would adversely

impact Title III-A Strengthening Institutions funds which go largely to community colleges and other resource-poor institutions with high percentages of needy students.

Of equal concern is the HSI program, which currently funds 165 HSIs, half of whom are community colleges, including my college. The single definition would immediately make 110 for-profit colleges eligible, causing many of us to lose grants. The single definition makes for-profit schools eligible for scores of non-HEA programs that use its definitions for program eligibility, including programs at NSF, HHS, Agriculture and Homeland Security. We understand that no list of these non-HEA programs has been provided, and we believe that Committees with jurisdiction may not even be aware of this pending change.

It has been claimed that the single definition is about serving students. This is a distortion or half truth. Taxpayer funds awarded to proprietary colleges subsidize corporate profits, for they are inseparable from funds used for students. On the other hand, all of the taxpayer funds provided to public community colleges, accountable to locally elected and appointed boards, go into education, not profits. The HEA has always reflected this fundamental difference.

Beyond student financial aid, American taxpayers should not be asked to subsidize significant shareholder profits at for-profit colleges. The single definition must be rejected.

AACC recommends the continuation of the 90/10 Rule as a way to prevent the pattern of fraud and abuse of financial aid that we saw in past years involving proprietary schools. Hearings by the Senate Government Affairs Committee in the early 1990's showed that institutions heavily dependent on student aid revenues had higher levels of fraud and the NIG has repeatedly cited continuing problems.

We dispute claims that for-profit colleges provide services to low-income and minority students that our community colleges do not and are skeptical when for-profit institutions claim that they will be forced to increase tuition if the rule is kept. Please retain the 90/10 Rule.

Lastly, AACC recommends that the 50-percent rule regarding distance education be modified to allow institutions to exceed the 50 percent limit, a waiver from the Department of Education based on specific criteria, including some of the standards included in the Distance Education Demonstration Project that is extended under H.R. 4283. We generally support full parity between on-campus and distance education, but believe that colleges heavily involved in distance education should have some additional oversight beyond current accreditation procedures. Asking the Department of Education to be a back stop in ensuring that the wrong institutions are not given access to Federal student aid is simply good prudent government with no harm to institutions.

Thank you for this opportunity to testify. I will be happy to answer questions.

[The prepared statement of Dr. Letteney follows:]

Statement of Dr. Alice Letteney, Executive Director, University of New Mexico–Valencia, Los Lunas, New Mexico, on behalf of the American Association of Community Colleges

Good morning, Mr. Chairman and Members of the Committee. My name is Dr. Alice Letteney and I am Executive Director of the University of New Mexico–Valencia. My college is an Hispanic Serving Institution (HSI) and a rural community college, serving about 2,000 students. I am pleased to be here on behalf of the American Association of Community Colleges (AACC). AACC is the national voice for community colleges and represents 1,173 community, junior and technical colleges. Included in that figure are a number of high-quality, for-profit colleges that carry regional accreditation status, a prerequisite for AACC membership. We are pleased to present our views on some of the integrity and proprietary school provisions in H.R. 4283, the "College Access and Opportunity Act of 2004."

Before I begin my testimony, let me provide a few statistics. Community colleges enroll more than 11 million credit and non-credit students each year. This includes 45.9% of all undergraduate African American students in American higher education, and 56% of all Hispanic–American students. They also enroll 48.6% of all first generation college students. Hence, we proudly think of ourselves as being the "Ellis Island" of higher education. At the same time, our colleges are undergoing a difficult period of sharp budget cuts coupled with dramatic enrollment increases. In the last budget cycle, state funding, which represents 41% of total revenues, decreased overall by 2.1%. And, over the last 3 years, our credit enrollments have exploded, by about 20%.

Background on Community Colleges, Proprietary Schools, and the HEA

AACC's overwhelming focus on the Higher Education Act (HEA) always has been and always will be on student aid. The HEA is essential for needy students to finance their education. More than two million community college students receive Pell Grants each year, which is almost one- third of fall credit enrollments. The "integrity" issues discussed below were not part of AACC's initial reauthorization position submitted to this committee. Essentially, they were thrust at community colleges by provisions in H.R. 3039 and, now, H.R. 4283. Our basic positions on these issues are shared by the American Council on Education, the umbrella higher education association, and the 44 other signatories to its May 26 letter on H.R. 4283.

HEA "integrity" issues inevitably raise the topic of proprietary schools. AACC commends proprietary schools, who in many ways are partners in providing technical training and other essential programs to millions of Americans. The continued expansion of proprietary schools testifies to the fact that they are meeting many needs.

However, proprietary schools are businesses. They have a central and necessary goal of earning profits. Alternatively, community colleges are, by law and custom, dedicated to the public good. While community colleges are complex institutions, with multi-million dollar budgets, any excess of revenues over expenses is redirected to educational programs and other student services. They do not enrich owners and stockholders. This is reflected in the different tuition levels. The average community college tuition this fall was $1,905. As of this fall, the average two-year, degree granting proprietary school charged $10,619—more than five times as much.

Congress Should Reject the "Single Definition" of Institution of Higher Education

AACC strongly opposes the inclusion in H.R. 4283 of the "single definition" of institution of higher education. The AACC Board has indicated that AACC must oppose reauthorization legislation that includes the single definition. This is largely because the inevitable and immediate result of the single definition is to reduce funding for community colleges, and make it even more challenging to provide necessary services to students. Our colleges can perhaps accept HEA reauthorization legislation in which o new money is the guiding principle, but they cannot accept "less old money."

The single definition does much more than make proprietary schools eligible for non–Title IV HEA programs. Even more significantly, it makes all those institutions eligible for scores of programs outside the HEA that use its definitions for program eligibility. This dramatic change to these non–HEA programs will occur without other committees of jurisdiction taking any affirmative steps to extend them to proprietary schools.

These additional for-profit institutions amount to about 4,000 institutions, more than all of the non-profit colleges combined. Degree-granting proprietary schools currently number about 800. This is more than two-thirds the number of community colleges. For the record, AACC has never questioned proprietary school participation

in the student aid programs. These programs represent more than 95% of total HEA expenditures.

The single definition would affect two HEA grant programs that are of particular concern to our association. One is the Title III–A of the HEA, the Strengthening Institutions program. On average, community colleges receive about 70% of these funds, with the remainder awarded to four-year colleges, public and private. The funds are awarded to institutions that serve high percentages of needy students and that have relatively few resources. Competition for these grants is fierce, and only about 15% of applications are funded in a given year, for average annual grants of about $350,000. Roughly 120 grants are funded at any one time. Unfortunately, appropriations for this extremely valuable program have stagnated. The program was funded at $80 million in fiscal year 1995; nine years later the fiscal year 2004 appropriation is $81.0 million. Our colleges are understandably dismayed about the prospect of an immediate and radical expansion of the pool competing for these limited funds.

Of equal concern is the impact of the single definition on the HSI program. There are currently 165 institutions participating in this program and half of them are community colleges. The single definition would immediately make 110 for-profit colleges eligible for these grants. Adoption of the single definition could therefore strike a serious blow to our colleges.

In earlier correspondence to the Committee, AACC asked for a list of the non–HEA programs that would be affected by the single definition, but none has been made available. We understand that compiling this list presents a research challenge, but this very fact suggests why it must be done before legislative action on the single definition takes place. We do know that a very broad array of non–HEA programs will be affected by the single definition (National Science Foundation, Department of Agriculture, Department of Homeland Security, Department of Health and Human Services), and most likely without the relevant committees of jurisdiction even being aware of its potential impact.

There are further implications for state scholarship and grant programs embedded in the single definition. Many of these programs also use the HEA eligibility definitions. Heretofore, there has been no discussion of this concept. The committee should fully examine this aspect of the single definition before moving ahead with it.

Lastly, proponents of the single definition and the title of this hearing suggest that this issue is about serving students. This is only half true—the services received by students are provided by institutions, and the single definition is about which institutions are allocated funds. Taxpayer funds awarded to colleges for students are not separable from the monies that ultimately flow to school owners and shareholders. Recent financial statements from some of these concerns place this into context:

Apollo Group (U. Phoenix): Gross Profits, $860.9 million over 4 quarters ending 2/29/04
Career Education Corp.: Gross Profits, $1.593 billion for 3 years ending 12/31/03
DeVry, Inc.: Gross Profits, $1.098 billion for 4 years ending 6/30/03
Corinthian Colleges, Inc.: Gross Profits, $541.3 million for 3 years ending 6/30/03

Community colleges are "open door" institutions that are accountable to their locally elected and appointed boards, representing the public. Proprietary schools are accountable to their owners and shareholders. These represent fundamental differences and, until now, the HEA has always reflected them by creating a strict statutory demarcation between them. This demarcation should stand.

The "90/10 Rule" is Good for Students, the Student Aid Programs, and Taxpayers

The so-called "90/10 Rule" was enacted in 1992 to prevent institutions from focusing exclusively on recruiting low-income students in order to profit from federal student aid eligibility. The primary rationale for this provision, originally the "85/15 rule" until it was watered down in the 1998 HEA amendments, was to ensure that proprietary schools were subject to a limited amount of free-market testing; that is, that the education was sufficiently high-quality that students were willing to use their own money to cover a limited share of tuition. In addition to preventing the misuse of federal funds, the "90/10 Rule" serves as a protection for low-income students, who are the least informed about the range of postsecondary choices open to them. Also, the Committee should be aware that the Departments of Defense and Veterans Affairs use an "85/15 rule" for their education programs because of the vulnerability to abuse of highly subsidized federal programs.

For purposes of comparison, the committee should know that, on average, community colleges receive no more than 7% of their revenues via the federal student aid

programs. The notion that a 90% limit on Title IV revenues presents a barrier for for-profit institutions is difficult for our presidents to imagine.

How well has the "90/10 Rule" worked in practice? In some ways it is hard to tell, in that the abuses that have been prevented by it cannot, by definition, be documented. Hearings by the Senate Government Affairs Committee in the early 1990s did show that institutions so heavily dependent on student aid revenues were subject to much higher levels of fraud. In addition, recent reports by ED Office of Inspector General (OIG) documented serious abuses, primarily in federal student aid programs. Some of these problems included: schools closing without warning; routine fabrication of financial aid documents; falsification of ability-to-benefit test results; widespread failure to comply with the "90/10" rule; overstating program length; and disbursing funds to ineligible students.

We reject some arguments that have been made to this committee on behalf of repealing the "90/10 Rule". This includes the argument that the "90/10 Rule" should be repealed because for-profit colleges provide services to low-income and minority students that non-profit colleges do not. Community colleges are easily accessible in almost all parts of the country, including inner cities as well as very sparsely populated rural areas. The claim that proprietary schools have left inner cities because of the "90/10 Rule" is impossible to verify; it does, however, reflect their owners priorities. In addition, we find the assertion by for-profit institutions that they will be forced to increase tuitions if the "90/10 Rule" is not repealed difficult to accept.

While proprietary schools serve large numbers of low-income students, non-profit institutions do as well. Sixteen percent of dependent students at both public and private four-year institutions are from families earning $25,000 or less, and one-quarter of students at those institutions are minorities. About a third of the students attend part time, and nearly 20 percent have dependents. Twenty-two percent of dependent students at community colleges are from families with incomes less than $25,000.

Community colleges may have lower completion rates than other types of institutions. In these cases, it is often due to the fact that they are mandated to maintain an "open door," serving all students who can potentially benefit from further education, not just those the institution would like to admit. This includes remedial education and ESL students. Lower completion rates are also due to the fact that more than 80% of our students work, more than 30% of them full-time. These heavy work responsibilities tend to stand in the way of program completion.

The package of integrity provisions put in place by the 1992 HEA reauthorization, including the "90/10 Rule," resulted in an immediate, precipitous, and sustained drop in the student loan default rate. Students who received an inadequate education, and are unable to find employment, are at high risk of defaulting on their loans. In 1992, the proprietary school sector default rate was 30.2%. Today, after more than a thousand proprietary institutions have been removed from the federal student aid programs, the proprietary default rate is 9%, significantly higher than the 3.5% rate for private institutions, and the 5.3% rate for public four-year institutions. It is and has been higher than that for community colleges, which are mandated by law and policy to maintain an pen door to all students.

Congress will be making a serious mistake if it allows the fraud and abuse of a decade ago to return to harm students, institutions, and taxpayers. The "90/10 Rule" needs to be kept in place to assure that students receive the quality education they have been promised.

Eliminate the 50% Rule—But Require a Second Opinion for Institutions That Go Above That Threshold

AACC supports elimination of the 50% rule, under the conditions as outlined below.

Community colleges are more heavily involved in distance education than any other sector of higher education. According to the National Center for Education Statistics, 90 percent of all community colleges offered at least one distance education course during the 2001–2002 academic year. 56% of all two- and four-year non-profit institutions of higher education offered courses.

In general, AACC supports the elimination of the current statutory provisions that create a lack of parity between courses delivered on campus and those provided through Web-based or other types of distance education vehicles. However, it should be understood up front that this will add significant cost to the student aid programs. Given the fiscal state of the Pell Grant program, significant program expansion must always be carefully considered.

H.R. 4283 effectively eliminates any telecommunications course from being considered a correspondence course. This makes students at schools that offer programs solely through telecommunications eligible for student aid. This educational delivery

format makes it harder to assess institutional structures, educational resources and student learning, and to ensure the integrity of student aid funds. We believe that this same pattern of fraud and abuse could emerge if this change is enacted without additional safeguards.

In virtually every case, the 50 percent rule has not prevented the expansion of distance education at schools that also offer classroom programs. This is because telecommunications courses (primarily those offered by television, audio, or computer) are not considered correspondence courses for degree programs if the number of telecommunications and correspondence courses do not equal at least 50 percent of the courses offered by the institution.

The 50 percent rule is not currently a barrier to institutional provision of distance education. Only a few schools are approaching the current limit. Some that are, and some that are interested in pursuing a 100 percent distance education program, are included in the Department of Education Distance Education Demonstration Program. We think this a good approach that should serve as the model for a permanent program to allow interested schools to receive waivers of the "50 percent rule" on a case-by-case basis. This approach recognizes the importance of and increasing interest in distance education, but protects students and student aid programs from being taken advantage of by easily accessed and highly advertised programs that do not provide quality education.

We recognize that the Committee may be reluctant to cede to the Secretary of Education blanket authority to grant waivers for institutions wanting to exceed the 50% threshold. Therefore, we are ready to work with the Committee to design specific criteria that the Secretary should employ when granting waivers. These would involve at least some of the standards used under the Distance Education Demonstration Program that H.R. 4283 extends.

We firmly support the role of accreditation in assuring quality education. But for institutions that offer most or all of their programs by distance, the need for additional oversight extends beyond accreditation. Ensuring program integrity is clearly a responsibility of the federal government, on behalf of American taxpayers, not accreditors. Opening distance education with no limitations, or without additional oversight by the ED, is an invitation for increased fraud and program abuse. The General Accounting Office stated in a February 2004 report that "the lack of consistently applied procedures for matters such as comparing distance education and campus-based programs or deciding when to incorporate reviews of new distance education programs could potentially increase the chances that some schools are being held to higher standards than others."

Asking the Department to play a role as a backstop in ensuring that the wrong institutions are not given access to federal student aid funds is good, prudent government, with no harm to institutions and potential great benefit to the public interest.

We thank you for this opportunity to present our views. I would be happy to answer any questions that you may have.

Chairman BOEHNER. Thank you.

Mr. Nassirian.

STATEMENT OF BARMAK NASSIRIAN, ASSOCIATE EXECUTIVE DIRECTOR, AMERICAN ASSOCIATION OF COLLEGIATE REGISTRARS AND ADMISSIONS OFFICERS

Mr. NASSIRIAN. Mr. Chairman, I appreciate the opportunity to participate in the hearings and to hopefully be responsive to some of the Committees' concerns.

My name is Barmak Nassirian. I am associate executive director with the American Association of Collegiate Registrars and Admissions Officers, a mouthful. AACRAO is how we refer to ourselves in shorthand. We are not part of the traditional lobbying community in Washington. We did not sign any letters other than our own to the Committee and are only essentially dragged into matters pending before the Committee when changes in the law begin to really intrude on the autonomy of institutions with consequences that I am convinced the Committee does not intend. So I hope with

all humility and with the spirit of attempting to be helpful to your deliberations, you consider some of our concerns.

I want to substantially associate myself with Dr. Letteney's observations on the three particular issues that you raise. We—it is very easy to go back to the 1970's and 1980's and look at the history of unfortunate waste, fraud and abuse in these programs and then declare victory and go home.

The problem is that patterns of disparate outcomes persist. And we need to be mindful that so much of the good that has happened since the enactment of the integrity provisions of the 1992 amendments are highly contingent on the particular provisions that the bill pending before the Committee would undo.

Now, having said that, I do not disagree that reputable companies are in student training and in the education market for the long haul. The question is, what do we do with the ones who are not at the table? The issue is not whether distance education is appropriate and whether reputable institutions like those at the table should be allowed to cross the 50-percent threshold. They should.

In fact, I will, in the interest of full disclosure, we do not ourselves have Federal contracts. We have a consulting unit that assisted a proprietary institution to expand its participation in the demo program. We have no ideological objection to proprietary schools, nor do we have any ideological objections to the profit incentive operating as a very efficient mechanism in these programs.

The issue becomes, how do we stop every website from becoming a school? How do we ensure that limited Federal dollars really finance quality education? And despite everything this Committee has done, the system is substantially operating on the basis of an honor system. We cannot be everywhere at all times. The IG, routinely, every time they turn a stone over, they find some untoward activity somewhere, and we need to be mindful, as a certain sailors' proverb: If you cannot tie one good knot, tie lots of bad ones.

And admittedly, every one of these provisions is not, in an axiomatic theoretical way, defensible per se because there will be exceptions that we can all agree should not be caught in the rule. But the issue becomes, what happens if all of these are undone? The one area of substantive disagreement that of course the Committee will have to resolve is the 90/10 Rule.

The real question, I suspect, becomes, what is it that these institutions are selling? If a dime on the dollar cannot come—we do not go to the extreme that the VA goes—by the way, this is a regulation that is in effect today, that says 15 percent of your students should be unaided by the Federal Government or by the school because that can become a loophole where artificial tuition hikes are then discounted back. We simply say, a dime on the dollar should come from sources outside of Title IV. That is a candid recognition we do not have good mechanisms of gatekeeping in Title IV. That is to say, we rely to the tune of 10 percent on somebody else's judgment, heaven forbid it be private funds but at least some other program, the labor department, VA, some other source of funding.

It really becomes an issue of, can that much separation between the haves and the have-nots be good for this country? Do we want entire schools populated with zero-EFC students? And I submit to you, we do not want that anymore than we want institutions that

enroll no federally aided students. We also have significant reservations about the transfer provisions in the bill which I urge the Committee to carefully review.

They really do severe damage to the tradition of autonomy in American higher education. I appreciate the opportunity and would be delighted to respond to any questions.

[The prepared statement of Mr. Nassirian follows:]

Statement of Barmak Nassirian, Associate Executive Director, American Association of Collegiate Registrars and Admissions Officers, Washington, DC

Introduction

Chairman Boehner, Ranking Member Mr. Miller, members of the committee, my name is Barmak Nassirian and I am Associate Executive Director with the American Association of Collegiate Registrars and Admissions Officers. I am honored to have this opportunity to share the views of our members with the Committee regarding certain provisions of H.R. 4283, the "College Access and Opportunity Act of 2004."

AACRAO is a nonprofit association of more than 2,300 institutions of higher education and more that 9,000 campus enrollment services officials. The campus administrative officials that comprise our membership range from front-line administrative staff to senior administrators with primary responsibility for enrollment planning, records management, administrative computing and other important operations central to the smooth and efficient administration of colleges and universities. Our membership includes public and private non-profit institutions as well as for-profit collegiate institutions.

Today's hearing focuses on the characteristics of for-profit schools participating in Title IV programs and considers whether students attending such institutions receive equitable treatment under current law. The question as framed is somewhat strained. Current law treats all eligible students identically and does not make distinctions among students on the basis of the type of eligible institution they attend. In contrast, participating institutions are treated differently under the Higher Education Act, as they are under a variety of other federal statutes, most notably the tax code. As it deliberates on H.R. 4283 pending legislation to reauthorize the HEA—the Committee is understandably interested in eliminating disparate treatment of eligible institutions that it deems inappropriate, while retaining differences in the law that can be justified on the basis of real differences among schools. Clearly identical treatment of different entities can be as inappropriate as different treatment of identical ones. The Committee is quite rightly interested in striking a proper balance and I hope the following comments prove helpful to the members as they consider possible changes. We believe the bill as currently drafted removes some of the most important safeguards for students and taxpayers. In addition to provisions that would weaken federal financial aid program integrity measures, the bill would shift significant additional costs to students by failing to authorize adequately increased Pell Grant maximum awards, eliminating low-cost consolidation interest rates, and increasing the rate cap on student loans. Regretfully, we oppose this bill as it currently is written.

Background

The for-profit sector's participation in Title IV was first authorized in 1972. At that time, the majority of proprietary schools were small privately-held trade-schools that provided vocational training. Today, the for-profit sector's participation in Title IV programs has grown to 2,215 schools, some 789 of which are degree-granting institutions. Among these are a number of publicly-traded institutions with large enrollments and multiple campuses. While the for-profit sector accounts for a significant percentage of the total number of institutions participating in Title IV, the percentage of students enrolled in the sector is quite small: students in this sector represent about 4 percent of the total student population, and only 2.1 percent of those enrolled in degree-granting schools (Attachment 1). The small size of the population served by this sector should not detract from a number of trends within higher education that can be substantially credited to the proprietary sector. For example, for-profit schools were at the forefront of innovations such as flexible course scheduling, convenient locations for working adults and accelerated programs. In addition, their model of student services—a model that treats students as consumers—has been significantly adopted by the collegiate sector.

Proprietary schools' track-record of flexibility and innovation is directly tied to their market orientation and the relative autonomy typically afforded owners and managers to administer the schools. In contrast, traditional collegiate institutions in the United States have a long tradition of shared governance, requiring active faculty involvement and broad consensus with regard to program offerings and academic policies. The profit motive that drives proprietary schools' responsiveness to market conditions has certainly been the primary force behind many of the positive innovations associated with this sector. Realistically, the same profit motive can, unless constrained by reasonable protections for consumers and taxpayers, induce schools to engage in practices that harm their students and the federal fisc. Sadly, federal student financial assistance programs have had too many instances of waste, fraud, and abuse associated with the for-profit sector. The worst of these was amply documented more than a decade ago by the Permanent Subcommittee on Investigations of the Senate Government Affairs Committee under the chairmanship of Senator Sam Nunn. The range of problems discovered by the Subcommittee included [1]:

- Deceptive recruitment practices;
- False claims and representations to prospective students;
- Falsification of admissions and financial aid records;
- Disbursement of aid to ineligible students;
- Schools that consisted of significant recruitment and financial aid operations, but non-existent or inadequate teaching infrastructure.

In response, the 1992 reauthorization of the Higher Education Act included a series of program integrity measures that, together with more robust enforcement by the Department of Education, significantly curbed the most egregious instances of fraud and abuse. Since 1992, components of the program integrity measures have been modified, relaxed or undone and some of these measures are under review by the Committee today. It is these provisions that I will discuss.

Single Definition of Institution

Currently, the Higher Education Act includes two distinct definitions of institution of higher education. The definition contained in Section 101 is limited to public or private non-profit institutions and is used to establish eligibility for non–Title IV programs. An expanded definition is used in Section 102 for purposes of establishing institutional eligibility for Title IV only. This definition of institution of higher education was modified in 1998 to include proprietary institutions, postsecondary vocational schools and certain institutions outside the United States. The bill pending before the Committee would adopt a broader definition that is substantially similar to that contained in Section 102 to establish a single definition of institution of higher education under the Higher Education Act.

AACRAO joins the rest of the higher education community in objecting to the proposed change and respectfully urges the Committee to consider the following concerns.

First, the public policy goals motivating a change are not compelling or clear. It is difficult to justify providing federal gift aid to profit-maximizing institutions unless the Committee believes that the provision of such federal funding will bring about a public good. We are unaware of the outcomes that federal subsidies to for-profit entities would allegedly effectuate. Where the for-profit sector might have advantages in efficiency or productivity, we believe federal contracts—not outright grants—would be the proper mechanism of availing the public of these advantages.

Second, the proposed change is likely to have severe redistributive consequences that could dilute the effectiveness of meager federal funds. Such important programs as those funded under Titles III and V of the Act are already under strain and would be further weakened by the sudden influx of newly eligible schools with unproven track records. For example, there currently are 165 grantees in the Hispanic Serving Institutions program. If the proposed single definition is approved, an additional 110 schools would become immediately eligible for the program.

Third, the Higher Education Act's definition of institution of higher education is relied upon in numerous other federal and state laws, as well as private contracts and agreements and any radical changes in definition would likely have significant unintended consequences. Even if the substantive arguments against the creation of a single definition were to be dismissed, the sudden change could cause chaos for the many other parties relying on the current Section 101 definition. We respectfully urge the Committee to carefully analyze the effects of a change in definition before making any significant changes.

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[1] Senate Hearings 101–659; Parts 1–4, February 20 and 26, September 12 and 13, September 25 and 26, and October 10, 1990. See also Senate Hearings 102–58 (1991) and 103–491 (1993).

The 90/10 Rule

The 90/10 Rule is a modified version of a program integrity provision originally inserted into the 1992 Amendments. At that time, the rule required that at least 15 percent of a proprietary school's revenues come from non–Title IV sources. The 1998 amendments reduced that share to 10 percent. The bill pending before the Committee would eliminate the rule altogether.

We believe that the proposed elimination of the 90/10 Rule is ill-advised, and that the elimination of this important market-based provision would significantly harm the interests of students and taxpayers.

To better explain our concern, we respectfully ask the Committee to consider exactly what type of for-profit school would gain eligibility if the rule were eliminated. Only schools that would be funded entirely (or nearly entirely) with Title IV dollars would stand to gain under the proposed changes. The most telling characteristic of such schools would be not only student bodies entirely consisting of students with Expected Family Contributions of zero, but also tuition and fees that mathematically equal the maximum Pell Grant plus the maximum loan limit. As mentioned above, schools fitting this description did enjoy Title IV eligibility before 1992, with disastrous consequences for their students and the taxpayers.

By way of background, we point out that the original rule—the 85/15 rule—arose from the desire of Congress to protect veterans. In 1952, as it extended the GI Bill after the Korean conflict, Congress was concerned that the educational benefits not end up funding courses of little value that flourished only to capture veterans' educational benefits.

More than 25 years ago, when the 85/15 rule was challenged, the Supreme Court upheld it per curiam.[2] The Court's decision described the 85/15 rule as based on a "rational assumption" that allowing the free market mechanism to operate would weed out those institutions which could survive only by the heavy influx of Federal payments.[3] The Veterans Administration still operates under the 85/15 rule today.[4]

To maintain the 90/10 Rule the Committee need not rely solely on the rationality of the assumption that a modicum of market value serves to ensure program integrity. In 1997, at the request of the Subcommittee on Human Resources of the House Committee on Government Reform and Oversight, the General Accounting Office initiated "a study to address the core of the issue: Is there a clear relationship between reliance on Title IV revenues and school performance?"[5] The GAO did find such a relationship. The title summarizes its conclusions: Proprietary Schools: Poorer Student Outcomes at Schools that Rely More on Federal Financial Aid.".[6]

The 50 Percent Rule

The advent of the Internet has revitalized interest in distance education within the traditional collegiate sector and promises to bring tremendous benefits as web-based delivery technology improves over time. By far the vast majority of colleges and universities have embraced distance education and are actively contributing to the creation of next-generation distance education models and technologies. The great interest in distance education is combined with concerns about security and integrity that parallel other deployments of the Internet. As with all things virtual, our enthusiasm for the great potential of the Web should be tempered with realistic safeguards against the greater risks associated with cyber-transactions.

The Committee's interest in promoting utilization of new technologies in distance education is shared by our members. We are, however, quite concerned about the potential for abuse if an important provision of current law that limits the percentage of courses offered entirely through distance education is eliminated. The fifty-percent rule limits the number of courses offered via distance education, as well as

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[2] Cleland v. National College of Business, 435 U.S. 213 (1978).

[3] Id. at 218. The Supreme Court points our that Congress continually extended the reach of the 85–15 Rule: First version—Applied only to non-accredited courses not leading to a college degree, that were offered by proprietary institutions. 435 U.S. at 216. 1974—The 85/15 requirement was extended to courses not leading to a standard college degree but offered by accredited institutions. 435 U.S. at 216, citing to sec. 203(3) of Pub. L. 93–508, 88 Stat. 1 582. 1976—The 85/15 requirement was further extended to courses leading to a standard college degree. 435 U.S. at 216.

[4] 38 CFR 21.4201. "Except as otherwise provided in this section the Department of Veterans Affairs shall not approve an enrollment in any course for an eligible veteran, not already enrolled, for any period during which more than 85 percent of the students enrolled in the course are having all or part of their tuition, fees or other charges paid for them by the educational institution or by the Department of Veterans Affairs pursuant to Title 38 U.S.C. This restriction may be waived in whole or in part."

[5] Ensuring Quality Education from Proprietary Institutions, GAO/HEGS–96–158 (June 6, 1996).

[6] GAO/HEHS–97–103. Henceforth Poorer Student Outcomes.

the number of students enrolled in distance-delivered courses only, to fifty percent of the total for each category. The provision dates back to the 1992 reauthorization's efforts at curbing documented abuses associated with distance education. We believe this safeguard continues to be necessary and should be maintained, a conclusion with which the GAO agrees. In February of this year the GAO concluded "[o]ur analysis of several factors including the extent to which any changes would improve access to postsecondary schools, the impact that changes would have on Education's ability to prevent institutions from conducting fraudulent or abusive practices, and the cost of implementation indicates that eliminating the restrictions without ensuring some form of management accountability would likely incur a higher risk for fraud and abuse than currently exists." The GAO continues by pointing out that the Department of Education recognizes that elimination or modification of the 50 percent rule would cost federal student aid programs.

While we agree that the rule may inadvertently limit the participation of some providers, we believe, as does the GAO, that continuation of the Demonstration Program, which allows for waivers to the 50 percent rule and provides monitoring and technical assistance on a routine basis is the most prudent approach to the federal financing of entirely distance-delivered programs.

Transfer of Credit

Since today's hearing focuses on H.R. 4283 and proprietary institutions, I would be remiss if I did not comment on transfer of credit proposals in the legislation. The bill contains numerous transfer-related provisions, virtually all of which address portability of credits earned at nationally accredited institutions—typically, proprietary schools—to regionally accredited colleges and universities. As the national association of transfer practitioners on campus, AACRAO believes that the proposed legislative language would have significant adverse consequences for students, taxpayers and the American tradition of federal non-interference with academic judgments of colleges and universities. Historically, the federal government has wisely allowed colleges and universities to autonomously determine the terms and conditions their students must meet to earn various academic degrees. H.R. 4283 would, for the first time, create a new federal mandate on a fundamentally academic issue, i.e., transfer of credit, and as such, would undermine the ability of institutions to safeguard the integrity of their own credentials.

The United States has the world's most mobile system of higher education. The Department of Education's Office of Educational Research and Improvement has found that the proportion of undergraduates attending multiple institutions of higher education grew from 40 to 54 percent (and among bachelor's degree recipients, from 49 to 58 percent) during the 1970s and 1980s. These data suggest that the proportion of transfer students surpassed the 60 percent mark in the 1990s. In addition, OERI found that the number of institutions attended by students had no effect on degree completion.

Not only is there every evidence that student mobility is at an all-time high without any documented adverse impact on degree completion, state policymakers and the higher education community are actively working on improving credit portability and making transfer even more seamless. AACRAO, for example, maintains a centralized database of transfer credit practices. The National Transfer and Articulation Network is working to improve inter-institutional articulation agreements. A number of states have put various mechanisms in place to help facilitate inter-institutional portability of academic credit. In view of all these positive developments, a one-size-fits-all federal mandate could not have been proposed at a less propitious time. Congress mandated that the U.S. Department of Education study the transfer issue during the last reauthorization of the Higher Education Act in 1998, yet the Department has not fulfilled its mandate. We fear that federal intrusion into academic prerogatives of the world's best higher education system will cause irreparable harm to the nation if Congress acts before it has adequate facts at its disposal. We are alarmed because the transfer-related provisions of H.R. 4283 are too blunt an instrument to address any shortcomings in the credit evaluation procedures, and would certainly harm transfer students, institutions of higher education and the public.

First, the proposed legislation represents a congressional second-guessing of campus academic judgments about course-equivalencies. This imposition of the new transfer mandate represents an unprecedented federal intrusion on the academic autonomy of colleges and universities. Academic degrees are made up of credits and federal regulation of credit-equivalencies is tantamount to a federal degree recognition policy.

Second, credit evaluation is a complex and deliberate process of placing students in courses for which they have the necessary prerequisites. Today's voluntary sys-

tem of inter-institutional transfer is based on principles articulated in the industry-recognized Joint Statement on Transfer of Credit (Attachment 2). AACRAO drafted this document along with the American Council on Education and the Council for Higher Education Accreditation. The Joint Statement recommends that institutions evaluate transfer credit on the basis of three criteria: quality, comparability and applicability. Specifically, the Joint Statement discusses the three criteria as:

(1) The educational quality of the learning experience which the student transfers;
(2) The comparability of the nature, content, and level of the learning experience to that offered by the receiving institution; and
(3) The appropriateness and applicability of the learning experience to the programs offered by the receiving institution, in light of the student's educational goals.

Credit evaluation professionals on campus go to great lengths to correctly analyze transfer applicants' transcripts and provide fair and accurate equivalencies that avoid duplication of effort and that correctly place these students in the sequences of courses for which they are academically qualified. The proposed transfer provisions would do away with the subtleties of credit evaluation by federally reducing the task to course comparability and student performance. As such, legislation would undermine academic quality at the same time as it would cause many students to be misplaced in courses for which they are not academically prepared.

H.R. 4283 would require institutions to disclose a statement on their transfer policy and, more importantly, would dictate the substance of an institution's transfer of credit policy to at least include non-denial of credits solely on the basis of the agency or association that accredited the sending institution, so long as the agency or association in question is recognized by the U.S. Secretary of Education. This provision would essentially do away with specialized accreditation by explicitly requiring institutions to treat all agencies and association recognized by the Secretary as interchangeable—technical school credits with medical school credits, law school credits with cosmetology school credits. Indeed the legislation would require institutions relying on non-federal voluntary accreditation standards—like medical education—to substitute the Secretary's unrelated judgments for their own autonomous systems of peer recognition. Further, the proposed legislation would set Secretarial recognition of accrediting bodies—hitherto deemed to be the minimal threshold for participation in Title IV programs—as the de facto ceiling by denying institutions the right to be more academically demanding than the least rigorous of accrediting agencies recognized by the Secretary.

Third, the legislation would not only hurt students by distorting their qualifications and causing incorrect placements, it would outright deny Title IV eligibility for some transfer students. By mandating that schools award academic credits even for coursework that is not applicable to the students' academic program, the proposed language would push many students out of eligibility for federal financial assistance by penalizing them under federal Satisfactory Academic Progress regulations that cap the number of credit hours a student can take and maintain Title IV eligibility.

Fourth, the proposed legislation would set up new and cumbersome reporting requirements to generate information of dubious value. The bill would require production and publication of credit acceptance statistics based on the accreditation status of sending institutions. Yet the bill is unclear as to how reporting institutions would authoritatively determine the accreditation status of each sending institution to the satisfaction of the provision's enforcement authorities. In mandating this new data reporting burden, the provision only adds to the problem of escalating college costs that the Committee seeks to redress elsewhere in the legislation.

Fifth, the proposed legislation would require accrediting bodies to serve as federal agents in enforcing the transfer mandates by adding three new provisions to Section 496(c). Not only would this be a redundant distraction for accreditors, it would add significantly to the costs of accreditation and represents another costly federal mandate working at cross-purposes with the college affordability provisions. Additionally, the bill contains several additional references to transfer in various disclosure provisions amending Section 485(a)(1) of the Higher Education Act.

AACRAO believes that one-size-fits-all legislative mandates on a complex topic such as credit evaluation would result in poor student placements, diminished quality and wasted resources. Institutions of higher education have an obligation to their students, their graduates, employers, other institutions of higher education and the public to protect the integrity of the degrees they confer. In an age when fraudulent credentials are becoming a national and international security problem as discussed yesterday in the Senate, Congress should be strengthening, not under-

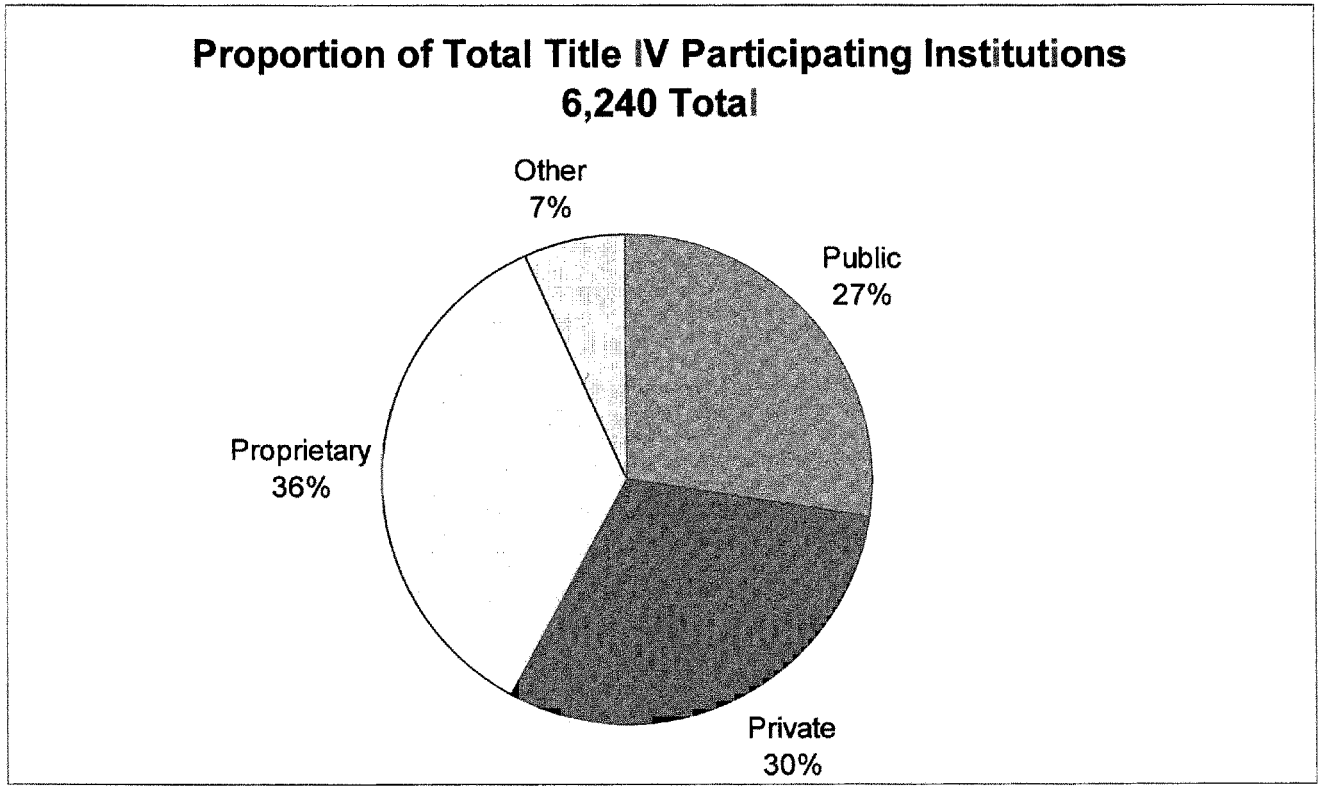
mining, the ability of colleges and universities to control the award of their own credentials.

AACRAO respectfully urges the committee to strike the transfer of credit provisions in H.R. 4283 and to instead engage in an objective study of transfer issues. We believe legislative action of this significance is not prudent before the findings of a properly conducted study are available to the Committee. AACRAO stands ready and willing to assist with such a study.

On behalf of the members of AACRAO, I thank you for your consideration of our views. We are mindful of your extraordinary contributions to the nation's students and look forward to working with you as you advance the cause of education.

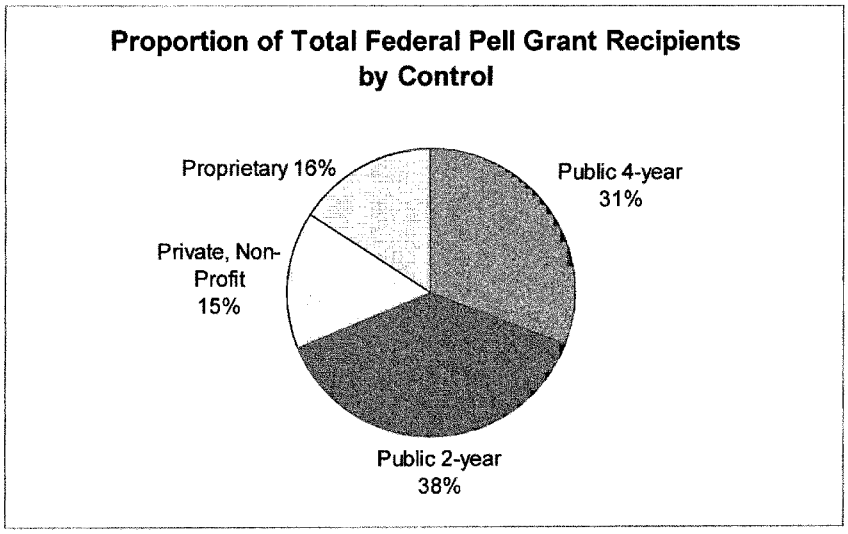
Attachments to Mr. Nassirian's statement follow:]

Chart 1

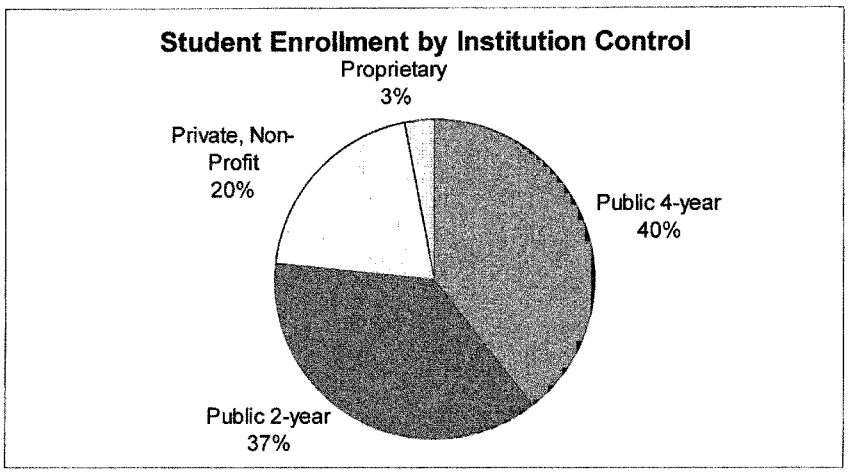


Source: Department of Education

Chart Series 2

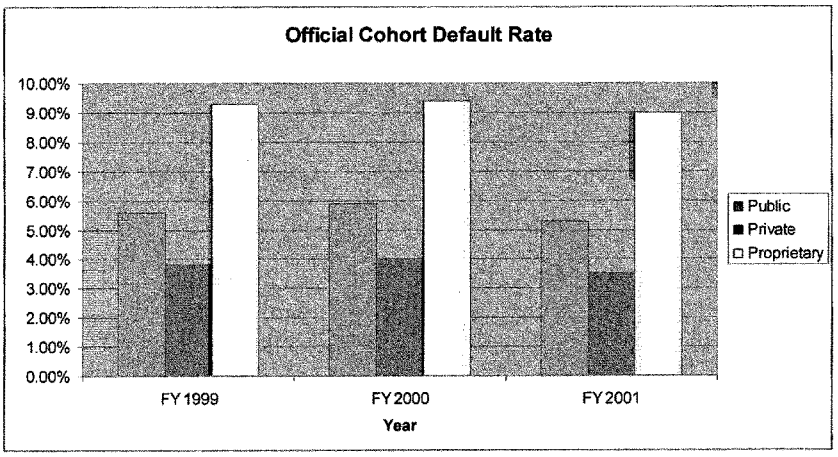


Source: U.S. Department of Education, *End of Year Report 2002*

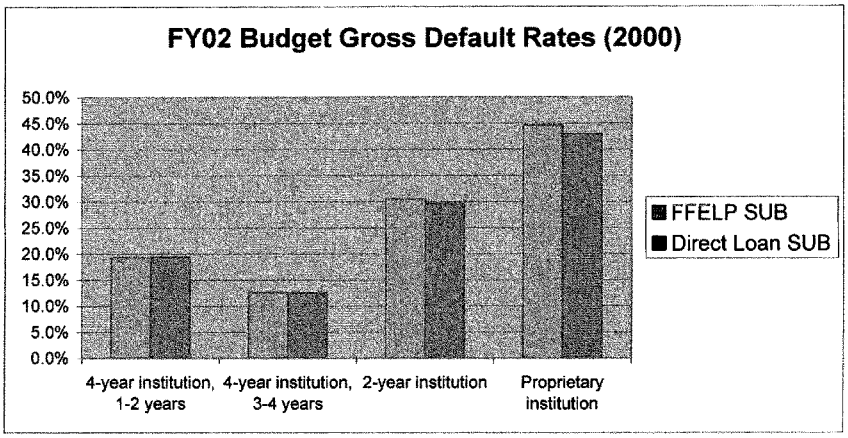


Source: U.S. Department of Education, *Digest of Education Statistics 2002*

Chart Series 3



Source: U.S. Department of Education; *Cohort Default Rate Web Site*



Source: Office of the Inspector General, U.S. Department of Education

Chairman BOEHNER. Thank you very much.

Mr. Moore.

STATEMENT OF DAVID G. MOORE, CHAIRMAN AND CHIEF EXECUTIVE OFFICER, CORINTHIAN COLLEGES, INC.

Mr. MOORE. Good morning, Mr. Chairman, Members of the Committee.

I am David Moore, chairman and CEO of Corinthian Colleges. We own and operate 133 colleges and 15 corporate training centers in the United States and Canada and serve over 66,000 students. Our institutions provide education and training that enables these students to become job-ready and advance their careers in today's demanding economy. We offer both degree and nondegree programs principally in health care, business technology and criminal justice. We have a high rate of graduate placement, about 82 percent.

To answer the question posed by today's hearing, students at for-profit institutions are clearly not treated equitably under current law. Reforms are badly needed to eliminate the 90/10 Rule, remove the 50-percent restrictions on institutions offering online education, deal with costly and unfair transfer-of-credit practices and restructure the definition of institutions of higher education.

To understand why, two points are critical. First, the traditional student is no longer the norm. Only a small percentage, about one-quarter of the postsecondary student population, fits the model of what I think many may have of higher education. That is the individual who earns a high school diploma, then enrolls full time in a traditional school, depends on parents for some financial support and does not work while attending school.

About three-quarters of postsecondary students today do not meet this traditional model. These nontraditional students are older, have family and work responsibilities and are concerned with preparatory work for entry into the work force or advancing their careers. For-profit institutions, like Corinthian Colleges, especially address the needs of these nontraditional students. One such student is here with us today.

Ms. Williams, could you stand please?

Mr. Chairman, this is Shirley Williams, a recent graduate of the medical assisting program at our Olympia Career Training Institute in Kalamazoo, Michigan. To meet her goal of entering the health care field she needed concentrated training. She could not go to a traditional 2- or 4-year program. Ms. Williams is the mother of three school-aged children and, while in school, worked part-time at an assisted-living facility. She just graduated this May and was an honor role student.

Federal student aid was critical to her. All of her tuition and fees, 100 percent, was covered by aid with about one-third coming from Pell Grants. She is now employed as a medical assistant at Marshall Internal and Family Medicine in Marshall, Michigan, a six-doctor practice group which serves that community.

Thank you, Shirley.

Ms. Williams is a good example of how for-profit institutions meet the needs of nontraditional students. She is also an example of the second key point that I wanted to make, how for-profit institutions are meeting the purpose of Federal aid programs. That pur-

pose is not to subsidize institutions or to give some of them special treatment. Rather, from their enactment in 1965, the aid programs have been aimed at educating and training students for productive involvement in the economy.

These needs are more important today than ever, as Federal Reserve Chairman Alan Greenspan testified to this Committee earlier this year. That is also why the business community as represented by the U.S. Chamber of Commerce has become directly involved in this reauthorization and is calling for the removal of impediments in the law to for-profit institutions' ability to supply the trained work force that employers need.

In re-examining the Higher Ed Act, this Committee should, I respectfully submit, judge whether provisions in the law meet or impede its work-force preparation goals. Tested against this principle, it is clear that the 90/10 Rule should be eliminated. The 90/10 Rule creates perverse incentives that push schools away from serving the neediest of students, especially minorities and women because they need more Title IV aid and thus put a school at risk of exceeding the 90-percent limit.

I have included in my written testimony three examples of our own institutions that demonstrate this point. They are our schools in Marietta and Atlanta, Georgia, schools in the sister cities of Portland, Oregon, and Vancouver, Washington, in San Bernadino and Anaheim, California. In each case, the schools offer the same or similar programs, are accredited by recognized agencies and have the same ownership and management. In short, there is no difference among them in quality or integrity.

Yet there is a significant difference in their 90/10 ratios, about 10 percentage points. Why? Clearly, it is because of the student population served in the amount of Federal aid, especially Pell Grants, to which the students are entitled. I would add that the 90/10 Rule also creates an incentive to raise tuition in order to obtain non-Title IV revenue. The 90/10 Rule therefore inhibits access and exacerbates the problem of affordability. The time has come to eliminate the 90/10 Rule.

As to online education, this holds tremendous promise to provide access to higher education for the nontraditional students about whom I have testified. This is another area in which we are increasingly involved with over 1,600 fully online students. The key issue is quality. By using an accreditation based approach, H.R. 4283 provides the right solution.

I also support the provisions in H.R. 4283 that remove the wrongful barriers to students' ability to transfer credits between institutions. There is simply no justification for the denial of credit transfers based on the accreditation of the sending institution when it is accredited by an agency recognized by the Secretary of Education. Such denials inappropriately deter students access to opportunities and to advance their education and careers. They raise costs by requiring payment for the same coursework twice, in some cases more. H.R. 4283 provides a carefully tailored approach that would not impair institutional autonomy. Transfer of credit is a real and ongoing problem for our students.

Finally, we support a single definition of an institution of higher education. H.R. 4283 takes another evolutionary step that is well

supported by the two key points I made earlier. Objections to a single definition reflect the outdated imperatives of institutions, not students, and miss the purpose of student aid programs, the education and training of students for productive involvement in this economy.

Thank you, Mr. Chairman. And I am ready to answer any questions.

[The prepared statement of Mr. Moore follows:]

Statement of David G. Moore, Chairman and Chief Executive Officer, Corinthian Colleges, Inc., Santa Ana, California

Mr. Chairman and Members of the Committee, thank you for the opportunity to testify about "Higher Education Act Reauthorization: Are Students at Proprietary Students Treated Equitably Under Current Law?" I am David G. Moore, Chairman and Chief Executive Officer of Corinthian Colleges, Inc. I have over 20 years of experience in both public and for-profit higher education. From 1980 to 1992, I worked at Mott Community College in Flint, Michigan, where I served as President for eight years. I then pursued a career in for-profit higher education at National Education Centers and DeVry Institute of Technology, before helping to found Corinthian and leading it to become one of the largest postsecondary education companies in the United States. Corinthian operates 88 colleges in 21 states in the United Sates, and 45 colleges and 15 corporate training centers in seven provinces in Canada. Our institutions of higher education serve the large and growing segment of the population seeking to acquire career-oriented education and training to become more qualified and marketable in today's increasingly demanding workplace. Corinthian's colleges offer Master's, Bachelor's and Associate's degrees, and diploma programs in a variety of fields, with a concentration in health care, business, criminal justice and technology. We currently educate and train over 66,000 students.

To answer the question posed by today's hearing—students who are pursuing their education and training at Corinthian's colleges and other for-profit institutions are clearly not treated equitably under current law. Reforms are badly needed in a number of areas, especially (1) elimination of the 90/10 Rule, (2) removal of the 50 percent restrictions on institutions offering online education programs, (3) elimination of unfair, costly and anti-competitive transfer of credit practices in higher education, and (4) restructuring the multiple definitions of an institution of higher education to end the two-tier classifications of these institutions and their students.

I. Two Key Factors—The Predominance of Nontraditional Students and Renewed Focus on the Workforce Preparation Purpose of HEA

To understand why these reforms are critically needed, I believe that it would be helpful to establish at the outset of my testimony two propositions that are highly relevant to the subject matter of this hearing and that have profound implications for making good public policy in this Reauthorization of the Higher Education Act programs.

First, the traditional student is no longer the norm. Only a small percentage of the postsecondary student population now answers to the model of what I suspect many still have of higher education. Individuals who earn a high school diploma, enroll full-time in college immediately after finishing high school, depend upon parents at least in part for financial support, and either do not work during the school year or work part-time are now the exception rather than the rule. As reported by the National Center for Education Statistics, just 27 percent of undergraduates met all of these criteria in 1999–2000. Thus, 73 percent of all undergraduates were in some way nontraditional.[1] These students are older, have family and work responsibilities, and are concerned with preparation for entry into the workforce or advancing their careers.

With a high school diploma increasingly inadequate to ensure that an individual can become a productive participant in the economy on a long-term basis and substantial demographic shifts occurring, we must abandon the notion that higher education today means spending an extended period on a traditional college or university campus and pursuing traditional academic subjects. While this approach may work well for approximately one-quarter of the postsecondary population, it cannot drive good public policy. To be sure, institutions that have such a mission will continue to play an important role in higher education. That role will be, as it has con-

[1] NCES, Nontraditional Undergraduates, Findings from the Condition of Education 2002.

sistently been for over 50 years, to educate and prepare about 20 percent of the workforce for entry into professional ranks. But, with the growing demand for a skilled workforce, institutions that have a mission of workforce education and training have a more valuable role than ever to play in higher education.[2] That role is to educate and train nontraditional students to fill skilled workforce needs. Institutions that serve these nontraditional students should be encouraged and facilitated, not hamstrung with outdated and outmoded restrictions.

Second, the federal student financial assistance programs exist to serve a purpose. That purpose is not to subsidize institutions or to accord some of them special treatment because of the nobility of the missions that they have established for themselves. Rather, from their inception, the federal student aid programs in the Higher Education Act have been geared toward a more concrete objective: the education and training of students for productive involvement in our economy. The legislative history of the 1965 Higher Education Act, which established the student aid programs as we know them, focused on "how best to increase the supply of trained manpower" and the need for "competent, well-trained professional and technical personnel."[3] The bill that became law ensured that training for gainful employment in a recognized occupation was among the objectives that eligible institutions pursue.[4] In reexamining provisions of the law and proposals for reform, Congress should, I respectfully submit, test them against whether they meet these original purposes of the student aid programs.

Indeed, these purposes are more vital today than ever before. As Alan Greenspan, the Chairman of the Federal Reserve Board, testified before this Committee on March 11, 2004, postsecondary education and training is critically needed to increase the supply of highly skilled workers. In response to a question from Congressman McKeon, Chairman of the 21st Century Competitiveness Subcommittee, on whether Congress should remove restrictions on distance education and for-profit institutions to better accomplish this end, Chairman Greenspan replied that Congress should use "any means available" and find new ways to education and train such workers. Chairman Greenspan's statement has even greater force because of the severe constraints on public and nonprofit institutions' ability to expand to meet this need.

The ownership structure of institutions of higher education—whether they be nonprofit, public or for-profit—is irrelevant. The question is whether provisions in the law, which perhaps had some rationale or basis in an earlier time under different conditions, now meet the pressing need to fulfill the purpose of supplying our economy with highly skilled workers or whether they stand in the way of that objective. If they present impediments, these provisions should be removed or modified.

With these two propositions in mind, it becomes readily apparent why for-profit institutions should play a key role—and be at least an equal participant—in the student financial assistance programs. For-profit institutions address the needs of the nontraditional student population, and prepare and certify them as ready for entry and advancement in the work force. For-profit colleges enroll a disproportionate number of minority, lower-income and other nontraditional students compared to nonprofit and public institutions.[5] For-profit institutions also account for a disproportionate share of degrees earned by minority students.[6] Moreover, nontraditional students have greater success at for-profit institutions as measured by such outcomes as student completion rates.[7]

Data on students who attend Corinthian's colleges also demonstrate how our types of institutions serve the nontraditional student. Of our 66,000 students, approximately 73 percent are female, 70 percent are over 21 years of age, and about one-half are minorities. Our institutions must meet minimum quantitative standards for completion and placement established by our national accrediting agencies, all of which are recognized by the Secretary of Education. Company-wide, 82 percent

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[2] According to the Bureau of Labor Statistics, the percentage of the workforce that requires skills training has grown from 20 percent in 1950 to 65 percent in 2000. Yet, only 25 percent of all persons over 25 years of age have a bachelor's degree or higher. This means that workforce education and training must be broadly understood to be more than traditional vocational education in trades.

[3] 1 U.S. Code Congressional and Administrative News 4053 (1965) (S. Rep. No. 673).

[4] Id. at 1264.

[5] Career Training Foundation, A Profile of Career Colleges and Universities 7–10 (2003) ("Profile"). U.S. Department of Education, National Center for Education Statistics, National Postsecondary Student Aid Study (NPSAS), Data Analysis System (DAS), 1990, 1993, 1996 and 2000, and IPEDS, Spring 2002.

[6] Id.

[7] Id.; Profile at 13–14.

of our students obtain employment in the field for which they were trained within six months of graduation.

These data are important to the development of sound public policy. However, it is necessary to remember that behind these data are real people, with aspirations, obstacles to overcome, and achievements. An example is Shirley Williams, a recent graduate of the medical assisting program at our Olympia Career Training Institute in Kalamazoo, Michigan. Prior to enrolling, she was not employed. To meet her goal of entering the healthcare field, she needed concentrated training. A traditional two or four-year program would not have met her needs. Ms. Williams is a mother of three school-age children, and worked part-time at an assisted living facility while in school. She just graduated this May and was an honor roll student. Federal student aid was critical to her. All of her tuition and fees—100 percent—was covered by aid, with about one-third coming from Pell Grants. She is now employed as a medical assistant at Marshall Internal and Family Medicine in Marshall, Michigan, a six-doctor practice group which serves that community. Ms. Williams is a good example of how Corinthian's colleges and other for-profit institutions serve the non-traditional student.

She is also a good example of how Corinthian's colleges and for-profit institutions are meeting the purposes of the student financial assistance programs. These purposes, as I have noted above, are to supply our economy's demand for well-educated and highly skilled employees. With the advent of a truly global economy and the rapid advance of technology, this need has become even more acute. Organizations like the U.S. Chamber of Commerce, the world's largest business federation representing over three million businesses of every size, sector and region, now recognize the importance of workforce preparation to maintain our competitiveness and preserve our economic security. They have also recognized that, as businesses seek to hire, train, and retain qualified employees and to keep pace with an evolving market place, deficiencies in our higher education system have been exposed. There is a shortage of well-educated and highly skilled workers to meet the needs of employers. Accordingly, the Chamber of Commerce has made Reauthorization one of its top legislative priorities.

In looking for effective solutions, the Chamber has turned to the for-profit sector of higher education because enterprising, market-oriented for-profit postsecondary education and training companies like Corinthian have identified needs underserved by traditional higher education institutions and evolved to supply the demand for educated and skilled employees. We are pleased that the Chamber has chosen to partner with us and with other leaders in the for-profit sector—Kaplan, Inc., DeVry, Inc., and Capella University. With the Chamber, we have created the Coalition for a Competitive American Workforce to address provisions in the Higher Education Act that are outdated and obstruct the ability of for-profit postsecondary education companies to provide innovative solutions to America's workforce needs. The impediments in the current law that prevent us from being even more effective in serving students and thereby promoting workforce development are the very measures identified by H.R. 4283, the College Access and Opportunity Act, as in need of reform—the 90/10 Rule, the 50 percent restrictions on online education, transfer of credit practices, and the multiple definitions of an institution of higher education. I will address these issues specifically in the remainder of my testimony.

II. Repeal of 90/10 Rule

The Higher Education Act currently requires for-profit institutions, and them alone, to obtain at least 10 percent of their revenues from sources other than the federal student financial assistance programs. Nonprofit and public institutions, even though they are advantaged through favorable tax treatment and public subsidies, are free to secure all their revenues from the student financial assistance programs. For-profit institutions, in contrast, return funds to the federal government in the form of taxes.

The 90/10 Rule and its predecessor, the 85/15 rule, were enacted at a time of substantial and justified concern about fraud and abuse perpetrated by certain for-profit institutions. A host of other measures to protect the financial aid programs and federal funds were enacted during this period. These included:

- Caps on excessive cohort default rates,
- Requirements for strengthened accreditation standards and procedures,
- Federal financial responsibility standards and letters of credit,
- Annual reporting of audited financial statements and financial aid audits,
- Student satisfactory academic progress requirements,
- Provisional certification by the Department of Education to limit an institution's participation in the Title IV programs,

- Reimbursement and heightened cash monitoring requirements that the Department may impose to limit an institution's access to federal funds to ensure that they are being properly administered,
- Incentive compensation limitations on student recruitment,
- Federal requirements for ability-to-benefit tests,
- Return to Title IV requirements,
- Completion and placement rate requirements for short-term programs,
- Definition of an "academic year,
- Limitations on branch campuses,
- Periodic recertification requirements, and
- Pre-certification training regulations.

Congress thus attempted to put in place a wide array of measures to curb fraud and abuse. Overall, the good news is that the problem has been effectively addressed. For example, default rates, which averaged 22.4 percent in 1990, have fallen substantially. Since the height of the concerns about fraud and abuse in the late 1980's and early 1990's, over 1,000 institutions have lost their eligibility to participate in the Title IV programs.

As the American Council on Education (ACE) recently commented, the system will never be perfect.[8] In a complex regulatory environment, instances of noncompliance will always come to light. The real issue, I submit, is whether the institutions participating in the Title IV system take their obligations seriously and have mechanisms established to try to achieve full compliance—to detect noncompliance and to rectify it when noncompliance is found. At Corinthian, we do, and so do the great majority of other organizational institutions.

It would be surprising if all of the measures enacted over 10 year ago had been equally effective. Imposed during a time of crisis, these were the best judgments of Congress at the time as to how to address a major problem in the student aid programs. With the benefit of over ten years of experience, it should now be possible to examine how these measures have worked and fine-tune the law to retain those that have proven most effective and to reexamine and, if justified, remove those that have been ineffective or, still worse, have had deleterious effects. I submit that the 90/10 Rule falls into the latter category.

The hypothesis supporting the enactment of the 90/10 Rule and its predecessor, the 85/15 rule, was that students' willingness to pay some portion of their own money would be an indication of the quality of for-profit institutions. At best, this was an unproven supposition. The rule never purported to examine the quality of these institutions directly. Instead, it relied upon an inference about student payments that could just have easily been explained by other factors—particularly socioeconomic status. The 90/10 Rule also involved a second-guessing of the decisions of accrediting agencies that have the responsibility for assessing educational quality in the Title IV system. As noted above, however, accrediting agencies themselves have been obliged to strengthen their standards and procedures since 1992 and to become more effective gatekeepers to the student financial assistance programs. Their improved performance alone ought to justify the elimination of the 90/10 Rule. In this regard, we agree with the recent statements of the ACE that accreditation "assures students and the public that institutions participating in the federal student aid programs have been thoroughly evaluated and offer a high quality education."[9] If this is so, and we believe it is, there is no longer any need for the 90/10 Rule, given its premise.

Furthermore, experience gained in the implementation of the 90/10 and 85/15 rule has shown that, rather than measuring educational quality, it does indeed measure only the financial need of the student population that an institution serves. The more students that are in need, the more federal student financial aid the students will qualify for and receive. The more aid that students receive, the greater is an institution's 90/10 ratio.[10] And, as an institution's 90/10 ratio increases, the greater is the peril that it will exceed the 90 percent limitation and lose its ability, without any opportunity for remediation, to participate in the federal student aid programs.

The 90/10 Rule thus creates disincentives for institutions to serve those most in need of student financial assistance, especially the poor, minorities and women. These are the groups who most heavily use need-based grant assistance, particu-

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[8] Letter from David Ward, President of ACE, to Hon. John A. Boehner and Hon. Howard "Buck" McKeon, May 26, 2004 (Attachment, p. 3) (Accreditation "not perfect," but "it works—better than any other approach").

[9] Letter from David Ward, President of ACE, to Hon. John A. Boehner and Hon. Howard "Buck" McKeon, May 26, 2004 (attachment, p.3).

[10] American Economics Group, the 90/10 Rule: Impact on Career Colleges 14, 16 (September 2003).

larly Pell Grants, to gain access to higher education. Institutions are precluded from denying access to this financial aid for students who qualify. Yet, the heavy usage of such Title IV aid puts an institution at risk of violating the 90/10 Rule. Institutions are therefore incentivized to reorient their missions and programs away from students who are most in need of assistance—the very students the student aid programs are designed to serve. These incentives will only be heightened if authorizations for Pell Grants and loan limits are increased.

The 90/10 Rule also undercuts the aim of improving the affordability of higher education. The rule creates incentives for institutions to seek funds that are not covered by financial assistance under Title IV. Since such aid is limited under the Higher Education Act, institutions can most easily obtain additional non–Title IV revenue by raising their tuition and fees. This cuts completely against the widely-recognized problem of affordability in higher education.

The perverse incentives created by the 90/10 Rule and its failure as a measure of quality and integrity can readily be seen at Corinthian's colleges. Corinthian owns and operates the Georgia Medical Institute, which has campuses in downtown Atlanta and Marietta, Georgia. Both are accredited and offer virtually the same programs in allied health. The downtown Atlanta campus has a student population that is almost 100 percent minority and 94 percent female. The school president maintains an emergency pantry so that students—primarily single parent African American women—will be able to feed themselves and their children and stay in school. In contrast, the Marietta campus serves a more suburban student population and a significantly lower percentage of minority students. At the end of our third fiscal quarter in March of this year, the downtown Atlanta campus had a 90/10 percentage of 90.25 percent. The Marietta campus had a 90/10 percentage of 81.9 percent.

The difference clearly has nothing to do with the two institutions' quality or integrity. They are accredited by recognized accrediting agencies, offer virtually the same programs, and are owned and managed by the same company. The only significant difference between the two campuses is the percentage of the revenues derived from Pell Grants—44.5 percent for the Atlanta school and 33.4 percent for the Marietta school. This reflects the location and student population served by the two schools, not their quality or integrity of operations.

Our Western Business College campuses in Portland, Oregon and Vancouver, Washington, tell a similar story. They are only twenty minutes apart, but serve very different student populations. The schools offer similar programs in business, information technology and allied health. They are each accredited by the Accrediting Council for Independent Colleges and Schools (ACICS), a recognized accrediting agency. The Portland campus is located downtown and has a minority population that is 26 percent of the total students. The Vancouver campus has a minority population that is only 11 percent of the total. The Portland school has a 90/10 percentage of 86.75. The Vancouver campus has a 90/10 percentage of 74.51. Once again, financial need is the explanation for this 12-point difference. At the Portland campus, 75 percent of the students qualify for Pell and SEOG funds. At the Vancouver campus, 59 percent qualify.

One more example makes the point. Our Bryman College in San Bernardino, California, serves an area that has had a depressed economy. Its student population is 60 percent Hispanic and African American, and 33.3 percent of its revenues come from Pell Grants and SEOG funds. Its 90/10 percentage at the end of our third quarter was 87.3 percent. In contrast, our Bryman College in Anaheim, California, is more of a commuter school, and about half of its students are Hispanic or other minorities. At the end of the third quarter, 26.4 percent of this school's revenues came from Pell Grants and SEOG funds, and it had a 90/10 percentage of 79.9 percent. With accreditation at both campuses from a recognized accrediting agency, similar program offerings, and identical ownership and management, the two schools nonetheless have approximately a 7 percent difference in their 90/10 ratio. As is the case at the Georgia Medical Institutes and Western Business Colleges, the percentage difference in the revenues derived by the two schools from Pell Grants and SEOG funds, which are a good proxy for the need of the student population served, parallel their differences in 90/10 percentages.

These examples make clear that the 90/10 Rule has missed the mark. Rather than ensuring institutional quality and integrity, it threatens access for poor and minority students. The time has come to end this experiment in public policy, and not to mend it. H.R. 4283 takes a well-justified and much-needed step in eliminating the 90/10 Rule.

III. 50 Percent Rule and Online Education

Other outdated and outmoded provisions in the Higher Education Act restrict the availability of financial assistance to students in online courses of study. The 50 percent limitations on courses and students were among the protective measures enacted over ten years ago. However, they were aimed at restricting the availability of Title IV aid to correspondence institutions; online education was not even in existence at that time. These limitations, and other restrictions in the Act applicable to students attending institutions that are predominantly diploma and certificate-granting, have been extended to online education by equating telecommunications and correspondence courses and programs.

The need for reform in this area is now beyond question. The findings of the Web–Based Education Commission, and H.R. 1992, passed by the House of Representatives in the last Congress, clearly made the case for change. More recently, the Department of Education released its Second Report to Congress on the Distance Education Demonstration Program. The Demonstration Program was a stop-gap measure passed in the last Reauthorization in 1998 as a temporary solution to allow the Department to gather more facts and experience with online education for the Congress to consider in making changes to the law in this Reauthorization. The Department has now found that it has uncovered no evidence that waiving the current restrictions in the Higher Education Act and the Department's regulations that impede online education has had negative consequences. On the contrary, the Department has stated that "[b]ased upon the experience gained to date through the demonstration program, and the trends that are evident in the development of distance education generally, the Department recognizes the need to amend the laws and regulations governing Title IV student financial assistance in order to expand distance education opportunities."[11] The Department also stated that there was a growing consensus that the quality of distance education programs should be assessed through the same accreditation process that governs on-campus programs.[12]

This conclusion has been reinforced by every bill that has been introduced to address online education in this Congress—S. 1203, introduced by Senators Enzi and Bingaman, H.R. 2913, introduced by Congressmen Andrews and Kildee, H.R. 3039 introduced by Congressman Cole, and now H.R. 4283, introduced by Chairmen Boehner and McKeon. Authors of all of these bills have concluded that an accreditation-based approach should be used to allow online education to become Title IV eligible. The accreditation community has stepped forward and demonstrated its willingness and ability to take on the responsibility for appropriate gatekeeping for online education. The accrediting agencies that accredit Corinthian's colleges have developed standards and procedures that address the special issues raised by online education, and the Council of Regional Accrediting Commissions (CRAC) has stated its support for the accreditation provisions of the College Access and Opportunity Act.[13]

Online education is one of the most promising developments to have occurred in higher education in recent times. It leverages the power of technology to enrich learning and create new educational opportunities. A substantial and growing body of research demonstrates that online instruction produces quality learning outcomes comparable to, and perhaps even better than, traditional education programs. Literally millions of students, especially working adults, will have higher education opened to them.[14] The accreditation-based approach of H.R. 4283 provides the right solution to ensure that accrediting agencies effectively serve as the gatekeepers to expanding access through this exciting mode of educational delivery.

IV. Transfer of Credit

Transfer of credit practices in higher education are another significant way that students attending for-profit institutions are treated inequitably. Here, the problem is not with what the law says, but with what it fails to address. While we are in agreement with those who contend that the federal government should not intrude upon institutions' academic decision making, the rhetoric to this effect masks the real issue. The problem is not whether transfer of credit practices would be federalized under H.R. 4283, but whether the academy should be indulged in practices that

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[11] Second Report to Congress on the Distance Education Demonstration Program at iv (July 2003).

[12] Id. at 20.

[13] Accrediting Commission of Career Schools and Colleges of Technology, Standards of Accreditation, Section XI; Accreditation Reviews, Distance Education Programs; letter from Sandra E. Elman, Barbara Beno, Steve Crow, Jean Morse, James R. Rogers, and Ralph Wolff to Chairman John Boehner, May 11, 2004.

[14] Babson College and Sloan Consortium, Seizing the Opportunity: The Quality and Extent of Online Education in the United States, 2002 and 2003.

are unfair, costly and anticompetitive. The answer is that it clearly should not. The academy's failure meaningfully to address the problem, despite years of talk, mandates a solution in federal law, especially when federal funds are being wasted.

Contrary to the contention there is not a "sufficient problem with transfer of credit" to merit the provisions in the College Access and Opportunity Act, transfer of credit has been a real and urgent problem for some time.[15] Even though proprietary school students attend institutions accredited by agencies recognized by the Secretary of Education (most of which are national accrediting agencies), they have long encountered blanket refusals even to evaluate the credits they have earned when they seek to transfer to public and nonprofit institutions accredited by regional accrediting agencies.[16] These institutions have been encouraged to adopt and engage in these categorical restrictions by their own desires to enhance the revenues they receive by forcing students to retake courses already successfully completed and by discriminatory policies and practices of their own accrediting agencies.

In 1997, the U.S. Department of Justice was obliged to intervene in the re-recognition proceedings for the Southern Association of Colleges and Schools (SACS) before the Department of Education because SACS" policies and practices made it difficult for students to transfer credits from an institution accredited by a non–SACS agency to an SACS-accredited institution. As the Justice Department stated in comments filed with the Department of Education:

> The Department of Justice submits this comment because of its concern that SACS" revised transfer of credit criteria may injure competition, competitors, consumers, and government agencies funding postsecondary education. SACS" revised transfer of credit criteria—most adversely affect technical, occupational, and vocational students, who wish to continue their education, but who may be the least able to bear the burden of unnecessary and redundant courses. They may also cause the waste of educational resources by placing unnecessary restrictions on transfer credits that are bad competition, educational, and public policy.[17]

SACS agreed to change its transfer of credit criteria "voluntarily" in order to secure renewal of its recognition as an accrediting agency from the Secretary of Education.

Restrictive and discriminatory transfer of credit practices have not been limited to SACS. In 2000 and 2001, the National Advisory Committee on Institutional Quality and Integrity (NACIQI), a committee that advises the Secretary of Education on accreditation and other institutional eligibility issues, held a series of hearings on the problems associated with transfer of credit. While some may seek to dismiss the evidence of transfer of credit problems as anecdotal, instance after instance was presented to NACIQI of arbitrary and inexplicable refusals by institutions to accept validly earned credits. These include not only refusals to accept credits earned by proprietary school students by traditional, regionally-accredited institutions, but also refusals by such institutions to accept each other's credits. Witnesses noted examples of public institutions in the same state university and college system that would not except credits from each other.

The transfer of credit problem is, in fact, systemic and widespread. In December 2001, the Career Training Foundation commissioned the Institute for Higher Education Policy, a nonprofit, nonpartisan research organization, to conduct a study of transfer of credit. The study combined the results of an original survey of almost 300 nationally accredited, degree-granting institutions with an analysis of policies on transfer of credit, with a particular focus on national guidelines embodied in a publication by the American Association of Collegiate Registrars and Admissions Officers (AACRAO)—Transfer Credit Practices of Designated Educational Institutions: An Information Exchange (TCP). The study concluded that substantial numbers of students from nationally accredited institutions reported that they were unable to transfer credit solely due to the sending institution's accreditation. In addition, nationally accredited institutions reported that they had been unable to develop articulation agreements, which can facilitate transfer of credit, solely because of their accreditation. Moreover, the study found that the TCP revealed a marked contrast between national and regional accreditation with regard to acceptance of transfer credit, with a pattern of negative treatment of nationally accredited institutions. Only

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[15] Letter from David Ward, President of American Council on Education, to Hon. John A. Boehner and Hon. Howard "Buck" McKeon (May 26, 2004) (attachment, p.5).

[16] National and regional accrediting agencies meet the same recognition standards. See 34 C.F.R. §602 (2003)

[17] Letter from Joel I. Klein, Assistant Attorney General, to Dr. Karen W. Kerschenstein, Director, Accreditation and Eligibility Determination Division, at 14, September 9, 1997.

18 percent of nationally accredited, degree-granting institutions were found to have their credits generally accepted.[18]

At Corinthian, we have recently experienced first-hand why we need changes to federal law to address transfer of credit. In April, we were sued in Florida state court by a former student of our Florida Metropolitan University (FMU), an institution offering programs up to the Master's degree that is accredited by the Accrediting Council for Independent Colleges and Schools (ACICS). ACICS has long been recognized by the Secretary of Education and, more recently, by the Council for Higher Education Accreditation (CHEA). The student had earned an Associate's degree at FMU and contacted three SACS-accredited institutions to determine whether the credits that she had earned at FMU could be applied toward a Bachelor's degree program that she wished to pursue. All three of these SACS-accredited institutions informed this single African American parent that they would not accept credits from a non–SACS-accredited institution like FMU. Rather than direct her justifiable ire at those who had unjustly refused even to examine her credits, the student has sued FMU and Corinthian. We are, of course, defending the case (we had disclosed to the student the possibility that her credits might not be able to be transferred), but the case vividly illustrates why the higher education community has been unable or unwilling to solve the transfer of credit problem effectively and why a federal solution is needed.

H.R. 4283 provides that solution. Contrary to the alarmist rhetoric directed at these provisions of the bill, the core point that the bill would establish is that institutions receiving the public's funds in the form of Title IV aid may not deny credit transfers solely on the basis of the accreditation of the sending institution, provided that the institution is accredited by an agency recognized by the Secretary of Education. The bill would not mandate the acceptance of credit transfers. Rather, it would de-legitimize what is plainly an illegitimate practice—the blanket rules institutions still utilize to refuse even to consider credit transfers, notwithstanding that the transferor institutions are accredited by established, recognized accrediting agencies.

It is difficult to understand why the higher education community could object to this principle. CHEA, which organizations representing traditional institutions look to for good practices in accreditation, adopted a statement on transfer of credit in 2000 which said that "institutions and accreditors need to assure that transfer decisions are not made solely on the source of accreditation of a sending program or institution."[19] This statement is consistent with the position recently expressed by ACE and other higher education organizations that accreditation "assures students and the public that institutions participating in the federal student aid programs have been thoroughly evaluated and offer a high quality education." As this position makes no distinction—and could make no distinction—between recognized national and regional institutional accreditation, there can be no legitimate objection to a rule that would preclude denials based on accreditation.

Accordingly, the College Access and Opportunity Act addresses a real problem and provides an appropriate, carefully crafted solution. It also provides the right mechanism to effectuate this solution. By requiring institutions to have a clear and forthright policy so that prospective students may understand the criteria by which their requests for credit transfers will be judged and by giving accrediting agencies—not the federal government—the responsibility to evaluate whether these policies are being followed, the bill would avoid the very federal intrusion that its critics in the traditional higher education community have already begun to bemoan. Furthermore, the reporting provisions on transfer of credit will give us the data, which opponents of these provisions contend is lacking, to determine the ongoing scope of the problem and whether it is being adequately addressed. I urge the adoption of the transfer of credit provisions in H.R. 4283.

V. Single Definition of Institution of Higher Education

Finally, I support the adoption of a unified definition of an institution of higher education in H.R. 4283. The criticisms that have been directed at this proposal are, once again, grossly overdrawn, and ignore the incremental nature of this step and the important conditions and limitations that are attached to it.

The single definition proposal represents an additional step in a direction that Congress began five years ago in the last Reauthorization in recognition of the changes that were occurring in higher education. Those trends, such as the predominance of the nontraditional student and the maturation of for-profit institutions,

[18] Transfer of Credit from Nationally Accredited to Regionally Accredited institutions 13 (December 2001).

[19] A Statement to the Community: Transfer and the Public Interest 5 (November 2000).

have continued and accelerated. It thus makes little sense to perpetuate distinctions that are rooted in history and that represent the imperatives of institutions rather than the goals and needs of students. In the Higher Education Amendments of 1998, Congress transferred all definitions of an institution of higher education from four different sections of the Higher Education Act to two sections in a new Title I. This transfer and consolidation recognized that the purpose of all such institutions is to provide access to higher education. Furthermore, it made plain that the same core requirements apply to all institutions—authorization by a state in which the institution operates, accreditation by an agency recognized by the Secretary of Education, and certification of eligibility to participate in the Title IV student financial assistance programs by the Department of Education. Nonetheless, distinctions between for-profit institutions and traditional institutions continued.

The College Access and Opportunity Act takes another step in this evolutionary process. Very simply, an institution of higher education would be defined in a single section of the Higher Education Act. However, important restrictions would be continued or enacted that would limit the ability of for-profit institutions to participate in federal funding programs. The "two-year" rule would continue to apply only to for-profit institutions, i.e., they must be in existence for two years before they may be certified as eligible to participate in the Title IV programs. In addition, for-profit institutions would not be eligible for funds under Title III of the Higher Education Act for the building of institutional infrastructure or the support of endowments. Moreover, for-profit institutions could never be considered Historically Black Colleges and Universities or tribally controlled colleges, as those institutions are defined in the Act.

All that H.R. 4283 would do is make for-profit institutions eligible to compete for certain grants that may be awarded to institutions from other funding sources. Even then, only two-year, degree-granting for-profit institutions could apply. Given all these restrictions, I believe that fewer than 10 percent of all Title IV eligible for-profit institutions would be able to file competitive grant applications. Based upon my experience, it is unlikely that more than a fraction of these relatively few institutions would apply. The amount of funding that would be available and the involved process of putting competitive applications together would simply not make it worthwhile for many for-profit institutions to pursue such grants. Nevertheless, it is important to recall that all of our higher education programs, directly or indirectly, are for the benefit of students. If a for-profit institution, for example, were to have a substantial number of low income Hispanic students, and it were to submit an application for funds that would meet their needs, it ought at least to receive consideration.

This suggests what is truly at issue with the proposal for a single definition of an institution of higher education and pertinent to the topic of this hearing—the equitable treatment of students at proprietary institutions under current law. A single definition would send an important signal to these students that for-profit institutions represent an equally valid option for the pursuit of their higher education and training. It would say to these students that, if they choose to seek the education, training, and skills that they need to become productive members of the economy at these institutions, they will not be regarded under federal law as second class citizens.

Chairman BOEHNER. Well, thank all the witnesses for their excellent testimony, some of which I agree with, some of which I did not. But that is why we are having this hearing this morning.

My good friend from Michigan brought up Pell Grants, and I just cannot quite let it go beyond. If you look at the maximum Pell Grant award since 1995, when the Republicans took control of Congress, we have had a 73 percent increase in the maximum Pell Grant award, 73 percent. If you look at Pell Grant funding since 1996, we have had a 95 percent increase in Pell Grant funding. Why? Because we have more students than ever, low-income students, attending postsecondary institutions. As a matter of fact, if you look, since 1996, we have had an increase of 1.7 million students who are accessing Pell Grants, an increase of 46 percent.

So for Members to suggest that we are not doing enough on Pell Grants, I want to set the facts straight. We would all like to do

more. And we all know that every $100 increase in the maximum Pell Grant costs the Federal Treasury about $400 million, and the challenges that we face in that account, in the coming years, are going to be even more difficult.

Mr. KILDEE. Would the gentleman yield?

Chairman BOEHNER. Be happy to.

Mr. KILDEE. Thank you, Mr. Chairman, for yielding.

We can talk dollars and dollars, but, actually, actual real dollars, the maximum grant is about $500 less than when the Pell program was enacted, in real dollars. So we can talk about nominal dollars, but, in fact, what they are able to purchase in education is $500 less than when—

Chairman BOEHNER. Well, reclaiming my time, I do agree that there is a problem with the purchasing power. But given the ever increasing cost of tuition and fees, we are doing all we can to try to keep up with it.

In 1999, we had a great economy. The stock market was booming. And Americans were very optimistic about the future. And in that year, the American economy lost 35 million jobs. Now, the American economy also created 37 million new jobs, a net increase of 2 million jobs.

So if we go 3 years ahead of time to 2002, the American economy was in a recession. We were going through the effects of post–9/11. And the stock market had crashed. And guess what? The American economy lost 35 million jobs. And the American economy only created 33.5 million new jobs. The churning that we see in our economy has always been there, but it has never been there to the extent that it is today.

And the need for life-long learning, the need for American workers to get tools that they need to participate in today's economy, is greater than ever in our history. And if you look at the traditional schools, what we would call traditional, postsecondary schools, where are the new seats? Where are the new schools? And if you begin to look at where these skills are coming from, by and large, many of them are coming from community colleges and from the proprietary sector in postsecondary education.

Mr. Nassirian, I have to ask you a question. In our bill, we outline three issues on accreditation. We say that you cannot deny the transfer of credit solely on who the accreditor is. We say, in the bill, that all postsecondary institutions should have a transfer-of-credit policy that you decide and, three, that you ought to live by it. Now, you took—you made criticism of our proposal. Now which of the three issues do you have a problem with?

Mr. NASSIRIAN. With all due respect, sir, the bill also dictates the substance of the policy. If the bill simply stated that you must have a publicly disclosed policy that you live by, that is certainly not objectionable. The problem is the bill then goes into the substance of what thou shalt do and says you may not deny credit on the basis of the sending institutions' accreditation status so long as that accreditation status has been recognized by the Secretary. I think that is a factual description.

Chairman BOEHNER. No. No. The bill says you cannot deny solely based on who the accreditor is.

Mr. NASSIRIAN. That is correct.

Chairman BOEHNER. And if—that is all it says. It does not qualify it in any way shape or form.

Mr. NASSIRIAN. May I—

Chairman BOEHNER. Go ahead.

Mr. NASSIRIAN. In the interest of really sort of articulating, there is an enormous amount of frustration on our campuses with this issue that I really do think this is an opportunity for us to explain. One, the Secretary has never been thought to be setting ceilings on the quality of education. I think the Committee would concur, the Secretaries' activity has to do with establishing thresholds and floors. And fourth, what the notion that institutions may not make distinctions amongst accreditors so long as they are secretarially recognized implies is that no accreditor may establish higher standards than those acceptable to the Secretary. That is one issue.

Chairman BOEHNER. But the—all the bill says is that you cannot deny the credits, transfer of credits, solely on who the accreditor is. I realize there are different accreditors, but all we say there is you cannot deny it solely on that purpose.

Mr. NASSIRIAN. Mr. Boehner, is it possible that some accreditors may be better than others?

Chairman BOEHNER. I agree with that.

Mr. NASSIRIAN. And if that is the case, why should a rabbinical college have to go through the transcripts of a Baptist institutions' coursework to decide wholesale that the credits it is interested in happen to be rabbinical credits? Why should a medical institution—

Chairman BOEHNER. We do not require that.

Mr. NASSIRIAN. Yes you do. Yes you do, sir.

Chairman BOEHNER. All we say is you cannot deny solely on that purpose.

Mr. NASSIRIAN. Well, I submit to you respectfully, sir, that that is grounds to reject the credits entirely if it so happens that the accreditor—it is not so much who the accreditor is; it is more who the accreditor is not.

I will give you a completely non-Federal example, sir. Medical education in the United States, the LCM, the Liaison Committee on Medical Education has nothing to do with the U.S. Department of Education, is not an accreditor that is recognized for Title IV purposes, really has nothing to do with this Committee's activities.

Mr. NASSIRIAN. It so happens that medical institutions in this country require for their reasons on the basis of, I am hopeful, medical training that institutions that have been accredited by that organization can send students their way and students that don't cannot. It may be that a dog grooming school teaches anatomy. Why should a medical institution have to go through the trouble of obtaining syllabi, textbooks, qualifications of staff before it can articulate a simple truth unless—

Chairman BOEHNER. They don't have to do that.

Mr. NASSIRIAN. Yes, they do, sir.

Chairman BOEHNER. No, they do not. The bill says that you can't deny the credit solely on who the accreditor is. Solely.

Mr. NASSIRIAN. That is what they want to do. They want to say, unless have you been accredited by LCME, we are not interested

in reviewing your transcripts; and I don't think you would want them to do.

I appreciate more than I could publicly acknowledge the efforts of this Committee on the issue of cost. I think these efforts are appropriate and have resulted in a lot of good things happening. This is going to be the single biggest cost driver in American higher education because, in essence, you are demanding that because the Federal Government buys GM automobiles and it buys Ford automobiles that the alternator out of a GM car should fit a Ford; and you know it can happen, but then all cars will look the same because of interchangeability of parts.

Chairman BOEHNER. I think what we are suggesting is that some schools routinely and arbitrarily deny the credit—the transfer of credit from a proprietary school to a traditional school just—without looking at the quality of the content or the makeup of the class; and all we are suggesting, without dictating the policy, is that to say that you won't take it because of who the accreditor is, is over the line. You want to reject it based on the qualities of the course, fine, you can go do that.

Mr. NASSIRIAN. Mr. Chairman, we share that frustration, lest I think we don't share the frustration with regard to transfer. My organization published a book called Transfer Students: the Forgotten Student. We are transfer practitioners. We are extremely concerned.

With all due respect, I would point out, first and foremost, that insofar as transfer is concerned the challenge is that of volume. There are hundreds of thousands of courses that are summarized on pieces of paper called transcript that come into the admissions office. And the experience of going through a course-by-course analysis—there is no such thing as a free lunch, and legislation can't create one. The course-by-course analysis that the bill would mandate would be backbreaking to every institution in this country.

We appreciate the motivation, but we ask you to give us a chance to solve this problem. Because we are all interested in eliminating duplication of effort. It is in nobody's interest to force a student to go through the same course twice. The challenge is when the course entry comes up in the admissions office we have no clue what is behind—

Chairman BOEHNER. My time has expired. But I have not gotten any suggestions from the community about how to address this other than you don't like what we have done. And if people are serious about helping students who we all know will go to multiple institutions solve this problem, I am certainly open to your suggestions.

Mr. Kildee.

Mr. KILDEE. Thank you, Mr. Chairman.

On the Andrews-Kildee bill, or the Kildee-Andrews bill, on the distance learning, we would drop the 50 percent requirement and have a certain surveillance on the academic side by the accreditation agency, on the fiscal side by the Federal Government. Do you think that that would take care of the needs if we were to enact that bill?

Mr. MOORE. Thank you.

Well, obviously, at the time that the Andrews-Kildee or Kildee-Andrews bill was introduced, we were very supportive of it. I am reminded of a late, great statesman who is quoted as saying, "If I am offered half a loaf, I will take it, but depend on me being back the next day to get the rest of it." so this is the next day, and we are back to get the rest of the loaf.

I think that the debate and discussion that was started with your bill was probably one of the most important activities that has happened for a while in this whole issue. I think as we go through this political process, and it is a political process, we are going to find opportunities to modify and improve the bill as we go through, while trying to maintain, I think, the heart of what the two of you were looking for and what we were supporting at the time. I think there is a lot of opportunity over here the next few weeks to sit down and merge what your goals were versus what the current goals are. Just remember, I am after the whole loaf.

Mr. KILDEE. I appreciate your candor and honesty.

Everything is step by step, I guess, on these things. I think that Rob and I worked together and felt that this would be a—each reauthorization very often moves us down—it is not everything in one bill but get some experience in that reauthorization and maybe the next reauthorization we take another step. That has been pretty well the history of the Higher Education Act.

In your memo to me—and I appreciate the memo; it is very thorough—you mentioned one of your institutions in Marietta, Georgia, and one in Atlanta; and the one in Atlanta was quite different. How would the change in the 90/10 help you better serve your students in Atlanta?

Mr. MOORE. The example we gave, Mr. Kildee, for Atlanta, Georgia, is also the same one in Portland and Vancouver and in the two schools in California. They are similar urban versus suburban schools that are essentially running exactly the same curricula under the same supervision but yet the 90/10 proportions are dramatically different in both of those schools.

What is going to happen in those urban settings, particularly if the Pell Grant increases and 90/10 doesn't go away, is we are going to have to start limiting access to those students who most need access because we can't jeopardize the school to continue to award 100 percent of Title IV as our students who are with us experienced. Right now, that is a relatively low occurrence, but if Pell goes up or the limits go up or you change the ratio of the amount of money that is available in the first couple years—and I can't believe I am standing here sounding like I could be opposed to that effort to help students, but that is the corner that we get backed into.

On one hand, we are arguing to try to support students, which is why we are here. On the other hand, I am being asked to jeopardize the institution that is trying to help that student. So in each one of those cases there is more students that could be helped and particularly in the area of those who are the most needy and most need the help.

As you know, I ran a community college in an inner city, and there were a lot of students that didn't get served very well that probably should have because the community college simply

couldn't serve them. That is not a reflection on the community college. That is the nature of the animal. And without the for-profit schools risking private capital to set up those institutions and run them, we wouldn't be able to provide the resources we do.

I hope that doesn't mean my time is up.

Mr. KILDEE. No. You are all set.

What you are saying, then, is that, if not now, soon you feel there may be a necessity to say to certain students we can't afford to take you because we jeopardize our 90/10 ratio.

Mr. MOORE. Yes, sir, that is correct.

Once again, that creates a dilemma. Because the law is very clear that if a student presents himself to us and is otherwise qualified—it is like the transfer of credit issue—they are fully qualified, we are required by law to accept that student. And if, in fact, they are 100 percent eligible, we can't turn around and say to that student we are going to discriminate against you because you are 100 percent eligible. But, on the other hand, if we enroll too many of those students, we are going to close the institution; and that is, obviously, an unintended consequence of 90/10.

The other piece I have to throw in, Mr. Kildee—I don't want to burn your time—but the supposed intent of 90/10 was to reduce fraud and abuse. I don't think there is any evidence either under 85/15 or 90/10 of any incidence of fraud and abuse that the law has caught. All it has done is discriminate against students. It really hasn't, that I know of, caught any institutions or put them out of business—that were put out of business because of fraud and abuse as it applies to 90/10.

Mr. KILDEE. I think my time has expired. Thank you, Mr. Chairman.

Mr. MCKEON. [presiding.] That was a great explanation of why we should eliminate 90/10.

You know, when the Higher Ed Act was passed in '65, the purpose, as I understand it—not having been here at that time; I was just a very young man then—but I understand that it was to provide increased access and to help those who needed the help most to participate in the American dream; and that is what we have tried to do in this bill that we have put forward in—we are not able to do all the things that we want to do to cut the tuition and fees and to keep school more affordable, but what we have really tried to do is expand access. And that hearing today where we are really highlighting proprietary schools I just want to thank you for what you have done to provide increased access.

I have a little chart here before me that shows in 1995 the top ten universities in the country by population. Starts out, University of Minnesota, Twin Cities, University of Texas. The population of the University of Minnesota at that time, 51,445 students.

On the other side, I have what the population of the top ten schools are now. And in 1995 there were no proprietary schools in the top ten. Fall of 2003, four of the top ten, Apollo Group with a population of 200,000 students; Education Management, 58,858; Corinthian Colleges, 57,580; University of Minnesota, which was 51,000 in '95, has dropped to 48,000. Where are we expanding the capacity? Where are we reaching out to give people an opportunity to participate in the American dream?

It seems to me the proprietary schools are taking great steps. Now some of the schools have increased in size. Ohio State added 1,000 students. But, I mean, in comparison, we would be in even further problems with trying to provide access to people if it hadn't been for what the proprietary schools had done. It seems to me that, because they happen to make a profit, that there are people that take exception with them; and I think that is the American dream, is we want people to be able to make a profit. I think that is what makes the machinery of this country move.

A couple of questions. Mr. Moore, as you are no doubt aware, one of the issues under consideration today is the role of the Federal Government with respect to proprietary postsecondary institutions. Some people see the enrollment of students with Federal financial aid at your schools as equivalent of a Federal contribution to your profits. How do you respond to that?

Mr. MOORE. Thank you.

Let me talk about profit to begin with. We tend to make a distinction between for-profit and not-for-profit schools when, in fact, there is no such thing as a successful college that isn't profitable.

I was a community college president in Flint, Michigan, for 8 years. I was there a total of 12. I can tell you that if we were not profitable every year we would have been out of business, because the State of Michigan was in no position to bail us out. We were told by our accountants, as a matter of fact, that we should have a goal of building a 10 percent fund balance at the end of every year. Now, a fund balance is a difference between income and expenses. The accountants call it a fund balance because the schools are not-for-profit. In fact, that is their profit.

It is interesting to point out that that 10 percent bogie for community colleges is exactly what the profit margin is in my corporation. Year in and year out, our after-tax profit is about 10 percent. That is after paying 40 percent of our income in taxes and all of our employees, some 10,000 of them, having paid 32 percent of their income in taxes, also.

So this fund balance issue in for-profit, we are clearly in line. In fact, current Department of Education requirements say you have to be a profitable by at least 8 percent to continue in the program.

The other misconception is that, somehow or another, those funds are going to investors. We have never paid a dime of our money to any investor anyplace in this country; and unless I go senile and start paying dividends, which isn't likely, we never will pay a dime to an investor.

The money that is being made off of the company is being made in the stock market as people are taking stock risks to buy shares in our company, but there is no return from that. There are no dividends paid. There are no options paid to investors. We pay our employees' options, but there is not a single dime of our money that is going to investors or people who are investing in our company.

What the investors are doing, however, which is what we really need to be concerned about, is they are building the infrastructure for us. They are the ones that are paying for the buildings, the computers, the textbooks, the facilities that are going into those schools, as opposed to using either tax money or endowment

money, which are the other two groups of schools some—we are for-profit, but so is everybody else.

Our profits are clearly in line, if you consider fund balances as profits, with everybody else, but, most importantly, there is no Federal money that is being paid to investors in my company and, to the best of my knowledge, none of the other companies that are in this sector.

Mr. MCKEON. Thank you.

Dr. Letteney, you talked about the concern of losing money if we have the single definition. If money were not an issue, would you have a problem with eliminating the—with going to the single definition?

Dr. LETTENEY. I think as a matter of public policy, yes, in that whether the profits that are available in Mr. Moore's company or the Apollo Corp. group—

Mr. MCKEON. I am saying if money was not an issue, if there is no money as an issue. Like right now, by going to single definition, it does put some money at competition. So there is money available. But if it were written such that money were not an issue, would you have a problem with going to a single definition?

Dr. LETTENEY. Our association has taken the stand that if a separate program were created then that would certainly reduce our opposition to this issue.

Mr. MCKEON. The issue is the money, not the single definition.

Dr. LETTENEY. From the perspective of this Committee's history, the philosophy and the principles that this Committee has stood for, we do feel that there is an issue with this Committee suggesting that not only should taxpayers pay for financial aid for students which goes to the students and the students have a choice they go anywhere else, but I would say that that is something—if there were a separate program created, it would be more palatable to our institution.

Mr. MCKEON. If a school has been in business and operation and graduating students, granting degrees for almost a hundred years and been a family business where they are really trying to reach out and educate and help people, why should they not have the same status as a school that is a public school that maybe has been in existence for 5 years or 10 years?

Dr. LETTENEY. I think the issue is not the status of the school. The issue is the question—

Mr. MCKEON. For these schools, status is a big issue. For the student that is graduating, it is a big issue.

Dr. LETTENEY. From my perspective—and, by the way, I have talked to some of our local businesspeople on this matter; and, from my perspective, the issue is whether this Committee chooses to go beyond Federal financial aid as a subsidy of institutions who have—

Mr. MCKEON. We keep coming back to money.

Dr. LETTENEY. Whether they distribute those profits is another matter, but our money goes directly back into the institution.

Mr. MCKEON. I guess I can't get an answer to my—what I am trying to say is, if we exclude money from the issue, do you see any problem with granting these institutions the same status as other institutions?

Dr. LETTENEY. I personally would still see an issue as a taxpayer, knowing that the dollars that go to, say, community colleges are going to the public good, as opposed to dollars that are going to education companies that have significant dollars available to give to their shareholders, yes.

Mr. MCKEON. Mr. Nassirian.

Mr. NASSIRIAN. Mr. Chairman, putting money aside, the change is ill-advised because of its breadth. We keep talking about degree-granting institutions being the same; and that is a middle ground, actually.

Mr. MCKEON. In the bill, we are talking about for degree-granting institutions.

Mr. NASSIRIAN. For degree-granting institutions, if you insulate redistributive effects and do a careful study to make sure that nothing unintended—and we defer to your judgment, of course. You are responsible for enacting the legislation.

Mr. MCKEON. We have never caused any unintended consequences.

Mr. NASSIRIAN. Mr. Chairman, I certainly accept that, but it is—if one carefully goes through what else may be off kilter as an unintended consequence of a change that would be agreeable. But to go to the extreme of treating all Title IV eligible participants as institutions of higher education, I think that is—

Mr. MCKEON. In our bill, this has nothing to do with Title IV. It is Title III and Title V.

Again, my question was, if we write it to eliminate the money, just talk about the definition, any way—

Dr. LETTENEY. Mr. Chairman, may I suggest that, as I stated in my testimony, we understand that the impact could be greater because other Federal agencies use the definition to determine who is eligible for their grants as well.

Mr. MCKEON. I understand that. That is why I was trying to get the money out of it, find out where we were on just feelings of the definition.

My time is up. If could you just be very brief. Mr. Smith.

Mr. SMITH. As an employer, we want great employees, irregardless of which institution they come from. I am a very strong proponent of treating all of our institutions of higher learning the same. I am a graduate of Ohio State University, a public institution. I chaired the board at Columbus Day Community College. I am considering now becoming an adjunct professor at a private college, and we hire lots of great people from DeVry, a proprietary college.

As I run this business and grow it, I need a great workforce. I need to be able to go to the multiple avenues to source that workforce. I need all of those avenues to be strong. So let's treat them all fairly, let's give all Americans the opportunity for a postsecondary education and then allow them the choice and allow the country to be stronger as a result.

Thank you, Mr. Chairman.

Mr. MCKEON. Mr. Andrews.

Mr. ANDREWS. Thank you, Mr. Chairman.

I would like to thank each of the witnesses for their outstanding contribution this morning.

I think higher education is one of the great success stories in the United States, and I think that success story in large part owes itself to the diversity of choice that we have in higher education. I think the failure that lies among these elements of success and the success story is that we have not done a good enough job reaching people at the bottom of the economic ladder; and I think one of the real strengths of the for-profit sector, as well as the community college sector, is that these two elements of higher identification make a special effort to reach students at that bottom part of the economic ladder.

So I am interested in doing whatever we can in this law to reach even more students so, as Mr. Smith just said, more of those students can become productive and dynamic workers and investors and entrepreneurs in the workforce. I think that is the way we have to come at this question of the 90/10 Rule.

And, Mr. Nassirian, I wanted to ask you about your comments about the 90/10 Rule. You indicate that—let me ask you this first: Do you agree or disagree with the proposition that students from a modest or low-income background are more likely to be loan defaulters than students from a high-income background?

Mr. NASSIRIAN. I do.

Mr. ANDREWS. Do you agree or disagree with the proposition that students from a moderate-income background are more likely to drop out before finishing their program than students from a high income?

Mr. NASSIRIAN. Regrettably so.

Mr. ANDREWS. I would agree with that, too. That is why I would call into question the 1997 study from the GAO that you refer to in your testimony. You say that there is a relationship, and you say the GAO says there is a relationship between reliance on Title IV revenues and the qualities of a school. I don't think that is true. And one of the reasons I think that is not true is, as I read the 7-year-old GAO study, it did not take into account the student body demographics of the schools that met this requirement. Would you agree with that?

Mr. NASSIRIAN. I do. The concern, Mr. Andrews, is not so much with any kind of a theoretical link between the incidents of default and income status. The real question—and it really has to do with competing visions of capitalism, I suspect. The real question is, do we want institutions that are composed entirely of zero EFC students?

Mr. ANDREWS. That is the question.

Mr. NASSIRIAN. I don't think that kind of segregation—

Mr. ANDREWS. It is your testimony that said there is this relationship. I didn't say this, you did, that there is this relationship between the quality of a school and how much or how little Federal financial is. I don't think that is true.

Mr. NASSIRIAN. There is a correlation—I am simply repeating what the GAO describes as a correlation.

Mr. ANDREWS. You think the basis of the GAO's conclusion is suspect because they didn't take into account the demographic students status of students?

Mr. NASSIRIAN. There is a correlation. I should point out, to this day, 4 percent—lest we get confused about where the students

are—4 percent of the students are in about a third of the participating institutions in Title IV, and yet lifetime default numbers that exceed 40 percent, dollar amount at risk in excess of 27 percent.

Mr. ANDREWS. Let's look at those default numbers a little more closely. You conclude that there is a link between the presence of the 90/10 Rule and the precipitous drop in defaults in the proprietary sector over the last 9 or 10 years. You claim there is a cause-and-effect relationship between those two. Could you tell us, of the thousands of proprietary schools that have been excluded from Title IV in the last 10 years, how many of them had revenues—nonFederal aid revenues of more than 10 percent, how many had less than 10 percent?

Mr. NASSIRIAN. It would be the number of institutions that have been pushed out of eligibility since the enactment of the 90/10 Rule.

Mr. ANDREWS. What is the data?

Mr. NASSIRIAN. I believe it was a handful. I want to say four, for example.

Mr. ANDREWS. Four had revenues of less than 10 percent.

Mr. NASSIRIAN. Four triggered the modified—

Mr. ANDREWS. My understanding is the huge majority of for-profit schools that have been excluded from the program were because of high default rates, not because they were less than 10 percent.

Mr. NASSIRIAN. That is the issue. We don't have the luxury of doing double-blind experiments here. In '92, in despair over the condition of the programs, Congress enacted a variety of measures, essentially out of a reasonable expectation that some of them may work. So, in candor, I don't have proof or any kind of a theoretically robust presentation to prove to anybody that the 90/10 Rule should or shouldn't be there. It is a matter of call as the Committee will deliberate.

Mr. ANDREWS. I think it is important that we establish for the record the question of how best to avoid fraud. Something, I think there is unanimous agreement here, that that is the goal. The question of how best to avoid fraud is not a matter of factual assertion. To come in here and say that 90/10 is the reason that the defaults have dropped is a view, but it is by no means a fact. A lot of us believe that the default rates have dropped in large part because of the default rate ceiling, because of more resources put into policing by the Department of Education, more resources put into the industry itself by members of the industry and a general increase in quality.

Now I don't dispute that 90/10 may have had something to do with that, but your conclusion, which seems to be—is that the absence of 90/10 would put at risk all of those improvements. I just don't see the data. If I am missing something, you would be free to supplement the record.

Mr. NASSIRIAN. As you contemplate any change, the question you should ask yourself is, who does it benefit?

Mr. ANDREWS. Can I ask one other thing about 50 percent?

You make a similar claim about the 50 percent rule opening us up to all kinds of fraud and abuse. But isn't it the case that if a school today offers 40 percent of its courses online and 40 percent

of its students are attending online, it might be the worst fraudulent school in the country, but a school that offers 60 percent of its courses online to 60 percent of its students might be the best school in the country? So isn't a better measurement of quality of education some robust accreditation standards like Mr. Kildee and I want, rather than an arbitrary 50 percent figure?

Mr. NASSIRIAN. The Andrews-Kildee legislation does have provisions that offer safeguard. The real issue is to make sure, again, no mathematical proof at hand, but to allow the Department discretion. We do advocate for expansion of distance education, and there is nothing magical about it.

Mr. ANDREWS. The Department has no discretion with a school that offers more than 50 percent. The purpose of our bill is to offer that discretion. That is to say, if you meet the robust accreditation review standards, you can go as high that you think you need to go. Isn't that better than the ridge of 50 percent?

Mr. NASSIRIAN. It is conceptually a sounder approach.

Mr. ANDREWS. So can we get your endorsement of the bill? Is that what you are saying?

Thank you very much.

Mr. MCKEON. Mr. Castle.

Mr. CASTLE. Thank you, Mr. Chairman.

This has actually been a fascinating hearing. We have some true disagreement on the panel, which is always fun. I walked in here not certain of exactly where I was on this, and I think my feelings have become more galvanized as I have heard it. I think it has been good. So I appreciate it.

Mr. Moore, let me say I am a fan of the distance learning, I am a fan of the for-profit institutions, and I think we do need to treat our unconventional students. But, having said that, I hope you are not teaching economics at Corinthian College, because I entirely disagree with your premise about the value of Federal dollars fleeing into the funding of your institution. It may be correct you are not paying dividends and, therefore, it doesn't flow directly to the stockholders, but to suggest that doesn't add value used for the expansion of the school or just added retained dollars in the accounts of the corporation is just absolutely borderline logic at best from an economic point of view. Clearly, that is profitable.

I think we have a very significant issue as to whether institutions—and my recollection I think in the top 10 stocks in this country in the last—you may be one of them—in the last 3 years, three or four of them are these for-profit institutions; and the idea of opening this up to Federal dollars is something I think we really need to pay attention to. We can't go over that too lightly.

I was struck—I walked in the middle of Dr. Letteney's testimony—by some of the things that she stated. One of the things I then confirmed in the written statement struck me, and that is that the average community college tuition this fall was $1,905 and the average 2-year, degree-granting proprietary school charged $10,916, more than five times as much. Is that a substantiated fact, Dr. Letteney?

Dr. LETTENEY. Yes. Yes. In fact, at my institution—and, I mean, New Mexico is a poor state by any standards—our institution

charges only $1,056 per year for tuition and fees. So the $1,905 is fair.

Mr. CASTLE. Later in that testimony you indicated that—you named the Apollo Group, Career Education, DeVry, Corinthian Colleges. You show the gross profits of Apollo being $860.9 million over four quarters ending 2/29/04; Career Education Corp., gross profits $1.593 billion for 3 years ending 12/31/03; DeVry, gross profits $1.098 billion for 4 years ending 6/30/03; and Corinthian Colleges to $541.3 million for 3 years ending 6/30/03. Are those figures which are—those are incredible numbers.

Dr. LETTENEY. Bear in mind those figures that I stated are gross profits. They are not the net profits. But they come right from the financial statements of the corporations.

If you look, for example, at the net profits of some of the largest education companies in this country for the last four quarters, they would cover the amount for the entire Title III strengthening institutions grant program, or they would cover the entire amount for the Title V grant program.

Mr. CASTLE. I remember reading someplace that the success of the Washington Post Company lately has been through Kaplan, not through the Washington Post itself, the illustrious newspaper there, which would sort of underline some of the things you are saying as well.

But my concern is that we are dealing with institutions—and I think actually Mr. Moore is correct about this. That is, there is no such thing as running a higher education institution which is not profitable in the sense that at least it is in the black, if not for profit, in terms of distribution or stockholders or whatever it may be, and that is significant. But I assume that in the present definition in which a community college can take advantage of Federal dollars that others cannot because of the definitional aspects of it that that money is of importance to the community colleges and being able to stay above that line and stay in the black with less revenues than the for-profits had. Can you expand on that or correct me if I didn't state it correctly?

Dr. LETTENEY. Let me give you an example.

Many of our institutions just run on very thin margins. We have an institution that serves 1,700 credit students, over 7,000 noncredit students, and we do that on $10 million. So if you look at the numbers of people that community colleges serve, we are running on very thin margins.

Let me tell you also—and let me thank you, Mr. Chairman and the Committee, for the Federal programs that are available. At our little institution we have—we are just finishing up a Title V program that involves student retention. We are working on—we have gotten a TRIO grant which has been enormously helpful to us, has 170 students in it. Twenty-five of those students—

Mr. CASTLE. Can you get to the answer of the question? I don't mean to cut you off.

Dr. LETTENEY. Would you restate briefly?

Mr. CASTLE. Basically, I indicated that—I asked, basically, do you need these dollars in order to keep above the line in terms of staying in the—

Dr. LETTENEY. Yes, sir. What I am saying is that, especially in a State like New Mexico, where in my county our average income is a little over $21,000, we are dealing with very, very poor first-generation students, parents don't understand, have not—

Mr. CASTLE. Again, I don't mean to cut you off, but I do need to cut you off.

Dr. LETTENEY. Yes. These Federal dollars have been critical to our moving forward.

Mr. CASTLE. This is apart from the Pell Grants and student loans. My understanding is that if you have those funds then, indeed, you can spend other funds—if you get those funds, you can spend other funds you already have on hand for other services.

Dr. LETTENEY. Yes.

Mr. CASTLE. Therefore, if you don't have to spend those funds if you are a for-profit, then you could—those would either go to the bottom line and some sort of retained earnings or they could spend it on expansion. I imagine most of the for-profits are expanding, which is fine. I am all for the for profits, but I am worried about the use of public dollars in the for-profits.

Let me change subjects for a moment. I want to talk about the 90/10 business. Because, again, I think it was in your testimony, I think it was on page 3, the community colleges receive 7 percent or so of their money from Federal student aid, is that correct? That seemed low to me.

Dr. LETTENEY. Well, you have to remember that, because across the board our tuition and fees are low, the amount of Federal financial aid that a student may get, a lot of that may go to their living expenses and other expenses. So the actual amount that goes to tuition and fees in the community colleges is relatively low because our tuition and fees are low.

Mr. CASTLE. You are basically then getting—the 7 percent of your revenues that you get on the $1,905 which is cited here are from Federal loans to students. Is that another way of putting it?

Dr. LETTENEY. It would be from Federal aid to students. Then, of course, the students pay for their tuition and fees, yes.

Mr. CASTLE. And yet we are trying to eliminate the 90/10 provision, meaning that only the 10 percent of any college paid for profit or anything else would have to have their fees come from something other than Federal dollars, is that correct?

Dr. LETTENEY. Yes.

Mr. CASTLE. You are saying community colleges aren't even close to having a problem.

Dr. LETTENEY. No, it is not a problem for us in terms of the percentage of Federal financial aid that comes to us through our students who are getting Federal financial aid.

Mr. CASTLE. Thank you.

Mr. MCKEON. Mr. Bishop.

Mr. BISHOP. Thank you, Mr. Chairman.

I want to stay on this 90/10 issue because I think it is very important as a matter of public policy. Mr. Moore, as I understand it, there are about 2,500 proprietary institutions that are Title IV receiving institutions. Do you have any sense as to how many of them are bumping up against this 90/10 difficulty?

Mr. MOORE. I am sure every one of them are bumping up against the 90/10 Rule.

Mr. BISHOP. The 90/10 Rule, as I understand it, is in the aggregate not per individual student. No more than 90 percent of the total tuition and fee revenue can be comprised of Title IV funds, correct?

Mr. MOORE. The exact formula is not more than 90 percent of the revenue on a cash basis can come—

Mr. BISHOP. You are saying that the vast majority of institutions are bumping up against that.

Mr. MOORE. Yes, sir. And they are managing it—and that is probably the other downside of the 90/10. They are managing because they are denying access.

Mr. BISHOP. Where is your institution? What percentage of your revenue is Title IV?

Mr. MOORE. Across the corporation is about 86 percent.

Mr. BISHOP. What is the total size of your institutional financial aid budget?

Mr. MOORE. Well, it is—you will have to do the math.

Mr. BISHOP. That is not the question I am asking. What portion of your total revenue do you plow back into institutionally funded student aid? Not Federal aid, institutionally funded student aid.

Mr. MOORE. Through the scholarships and student loans, we put about 5 to 7 percent of our revenue back into the students.

Mr. BISHOP. On the question of access then, is it not possible for you to increase that? I mean, what you said is that this 90/10 Rule creates perverse incentives. You said it was pushing schools away from needy students. And you are suggesting that the 90/10 Rule inhibits access.

Mr. MOORE. Correct.

Mr. BISHOP. Now I come out of an institution that was not-for-profit. It was, by the way, particularly good at being not-for-profit.We really were very good at that. But we discounted tuition at the rate of 35 percent; and that is not unusual for private colleges in the Northeast, I mean, to have a student aid budget—unfunded student aid budget somewhere between 25 and 35 percent. You are at about 5 percent.

Mr. MOORE. We are not allowed by law to discount tuition. We have to charge everybody the same route.

Mr. BISHOP. We are charging the same thing, but we are putting it back in. It is called discounted aid.

Mr. MOORE. Right. In using your analogy, that roughly 5 to 7 percent allows us to fund students through loans, but we can't discount tuition, we are prohibited from doing that, and the scholarships that we grant are, in fact, student loans and have to be repaid.

Mr. BISHOP. So there is not nonrepayable institutional grant money that you provide to help students pay their bills.

Mr. MOORE. We are prohibited from that by Federal law.

Mr. BISHOP. Wouldn't it be a better use of public—wouldn't it be a better public policy issue to allow you to do that? I mean, if—here is my problem: We are reauthorizing higher ed. We all agree that we have an access problem. We all agree we have an affordability problem. But we are addressing it, at least in this bill, ex-

clusively in terms of increasing loan limits. We are not doing anything else. We are not raising Pell Grant maximums.

So if we, in fact, have an access and affordability problem, which I agree that we do, it seems to me that the only place where we are allowing Federal dollars to flow in a greater—to a greater extent than is now the case is to the proprietary institutions if we were to do away with 90/10. Is that not correct?

Mr. MOORE. We are the only ones that are governed by 90/10; 90/10 does not apply to community colleges.

Mr. BISHOP. Wouldn't it be nice if we had to worry about 90/10 at the institution I had been at?

So the fundamental premise of this bill is that it is a revenue-neutral bill. There will be no new dollars flowing to higher education. So to the extent that there are no new dollars flowing to higher education, if we were to take that pie and divide it somewhat differently so that additional dollars could flow to the proprietary institutions, would we not be disadvantaging public sector institutions and private sector institutions?

Mr. MOORE. Well, I think that, Mr. Bishop, it is a function of what the purpose of the law is. If the purpose of the law is to provide access to students—let's take the institutions out of this. This is not an institution funding issue. This is a student access issue.

So the question is, is the money going to follow the student or not follow the student? If it is going to follow the student, then it shouldn't matter what institution they go to. If Joe Brown wants to go to school, he ought not be limited between going to a tech school and becoming an auto mechanic or diesel engineer, as opposed to going to community college because the money doesn't follow him.

Mr. BISHOP. If we are dealing with student access and we have to agree that we have access all across the system, as a matter of public policy it seems to me that our priority here for addressing student access to the proprietary institutions—we have shortages of physicians. We have shortages of scientists. We have shortages of mathematicians and nurses. This is the best public policy decision that—

Mr. MOORE. Let me address it slightly different. We are also talking about capacity. There is probably not a State university or college in America that isn't crying the blues that they don't have enough capacity for the students that are showing up. U.S. News and World Report has an article to that because schools now have to show they are getting massive applications for the few students that enroll. It is well known that capacity doesn't exist.

So the question is, if you are going to rely on traditional schools to provide that capacity, you—Congress—and the States are going to have to come up with the infrastructure to do that. What we are suggesting is private capital is willing to build that infrastructure, but the money has to follow the students—not the schools but the student.

Mr. BISHOP. My time is up. If the Chairman will allow—

Mr. ROSEN. Mr. Bishop, if I could respond on the issue of access, I can give you some very clear sets of examples.

We have three schools within the Catholic system that are right up against the 90/10 cliff, and one of the reactions to that is we

have imposed a requirement that every student must pay $100 a month in order to come to our school. Now the result of that, these are—two of these three schools are in the border towns of Texas among the poorest communities in the United States; and the result is that there are hundreds of students who want to come to our institution, who want to take the next step in advancing their career and becoming role models for their children, but they can't do it because $1,200 a year is absolutely an insurmountable burden for them.

Mr. BISHOP. But Mr. Moore said that 5 percent of his institution's budget is dedicated to repayable assistance that goes to these students. Is that correct? Now—

Mr. MOORE. That doesn't count against 90/10, by the way. We don't get any credit for that.

Mr. BISHOP. That would be a source of tuition. That is a non-Title IV source of tuition, is it not?

Mr. MOORE. But it doesn't count in the 90/10 formula.

Mr. ROSEN. Cannot be counted on the 10 side of the 90/10.

Mr. BISHOP. So the 10 side relates only to what students pay out of pocket.

Mr. ROSEN. It is money that comes from a student's pocket.

Mr. BISHOP. That is the way I read it.

Mr. NASSIRIAN. The mode of analysis, the one way of thinking about it, you have heard all about the concerns expressed by the President of Harvard University of lack of economic diversity at the very top of our system of higher education. One may ponder why should we be concerned. Access to what? At the most prestigious institutions, you are looking at a per capita subsidy above and beyond out-of-pocket expenses that today, give or take, borders on around $24,000 per head. In other words, a student who goes to the most selective segment of our system of higher education is receiving an additional $24,000 of subsidy from sources other than what he or she pays.

At the other extreme, you have for-profit institutions where, by definition—and this is for Mr. Andrews, who isn't here—this is a mathematical issue. The amount of subsides is a negative amount. The amount they pay—typically, on this the school is losing money and may be headed a bad way, is actually beyond what the expenditure per student adds up to.

So when we talk about capacity issues, we are certainly—as enrollment planning officials, we are very aware of the critical role that for-profit sector institutions can play. But that is good news for them, because that is a way of actually going beyond 90/10. If the State of New York has a capacity issue, it can contract with New York institutions and, guess what, the funds that derived from the State of New York will actually remedy the 10 percent issue.

The real critical problem is why is it that nobody—why is it all Title IV money? Why isn't somebody else putting a dime on the dollar into this pot? And, candidly, that is how $600 toilet seats were sold to the Pentagon. If we required people to have a market test on the front end, we would have avoided the—

Mr. ROSEN. There is an assumption that students have thousands of dollars at their disposal to spend on their education. The

purpose of Title IV is to enable the lowest-income students to acquire the ability to go to school and improve their lives. The reality is, sure as we sit in Washington, it seems like, of course, they should be able to contribute $1,000, but that is not the case with a lot of students.

Mr. BISHOP. That is not the point I am arguing.

Mr. MCKEON. Mr. Petri.

Mr. PETRI. Thank you, Mr. Chairman. Apologize, I had a hearing next door on a different Committee.

I guess I just have a general area I would like to explore with you briefly. That is the area of the competition between the traditional vocational schools and State schools and the proprietary education.

It is my impression that proprietary our for-profit schools, the Kaplans and the Parsons, the Phoenixes of this world, have grown enormously because they have been meeting a huge need. They have adjusted the way they provide education to much more focus on the consumer rather than having the society adjust to the way they traditionally were doing things. So you would think that should be rewarded rather than—it probably is causing enormous change in the government side of education as a result, rather than us throwing up barriers to that.

One thing that I am curious about is whether in proprietary education you have the phenomenon of students that we see in the public sector—I don't know if it is true in vocational as it is in general—of kids not graduating in 4 years but stretching it out and using the money to have a good life experience rather than getting on in the field of work. Nothing against all that, but that is not what the taxpayers' money is for.

Could you comment on that and how we can minimize farming the system for life-style value as opposed to supporting people acquiring needed skills which benefits us all?

Mr. ROSEN. I think, to respond to the first set of comments, I really believe that what has made the higher education the best in the world is exactly the competition between various modes of education from the Harvards to the State colleges to the community colleges. We put—the Congress in its wisdom has put the money in the hands of students to make choices as to what institution meets their needs. It is not—Congress isn't making those decisions, but students make the decisions as to what is right for them. The result of that is schools compete for those dollars, and they try to become better and more effective at reaching niche audiences that want their kinds of programs.

Now, one of the ways that traditional schools compete is by being relatively relaxed on the subject of graduation or moving along toward graduation. I think you would find at most of the proprietary schools we tend to be much more disciplined about moving students from quarter to quarter and on to graduation, in part because we know that our students are not there for general life-style issues or for social issues. They are there because they want to advance in their careers. They want to make more money and provide for their families. We are doing them a favor by providing more discipline and insisting that they come quarter by quarter.

To take a leave of absence at Kaplan College is a very difficult process. In a family emergency it is possible, but it is highly discouraged because we know once a student, especially a student who is has not shown a record of academic success before, once they step off of the path, it is much harder to get them back on.

Dr. LETTENEY. May I respond to that as well? Just in terms of capacity I think you should know that over the last 3 years the community college credit enrollment has increased about 20 percent. So we are handling some of that capacity, too.

And I agree with Mr. Rosen that, for example, in the community colleges we anticipate students are going to step out. At my institution, I have more part-time than I have full-time students. We anticipate they may come in needing remediation. Over 60 percent of our students do. We anticipate they may have family issues and other issues. Their average age is 29. Most of them are working adults. So we do things differently, not to criticize either way that we do it, but we are providing different opportunities.

Mr. SMITH. When we think of education, we think of these students—these students are individual people. I think sometimes we think of education as one-size-fits-all. Truly different personalities, life-style may make it more advantageous for one student to go to a proprietary school, another to a public school.

I have a relative who attended Ohio State University for about 2 weeks and realized it clearly was not the right fit for her. She left but re-engaged to increase her odds in the workforce. She is now in nursing school at a community college.

I like the fact that there is competition, and we must acknowledge that this particular institution or this particular type of institution may not be the best fit for all students. So let's give the students a choice.

I really like what I have heard today in regards to allowing the dollars to follow the students, allowing the students to get the education and create a stronger workforce.

Thank you.

Mr. MCKEON. I don't even look at it so much as competition as expanded opportunity. I think that is what we need to focus on.

Mrs. McCarthy.

Mrs. MCCARTHY. Thank you.

I have to say I am really enjoying the debate that we see going on here.

Let me first say, when Mr. Boehner was talking about single definition, New York State has had that for so many years and I don't understand what the problem is, because our board of regents has come up with the single definition and it has worked very well for everybody.

Second part that I would like to talk about, which will go to the whole panel, hearing the concerns, No. 1, of a lot of my colleagues here and the debate that is going on in the panel, even though technically in 6 years we would be looking at this bill again, would you all be a lot more comfortable if the concerns that people had with repealing the 50 percent, the 90/10 and moving to a single definition stem from the well-known problems that went on with the career colleges going back almost 10 years ago or even more than that? So, for the panel, what if Congress repealed these items

now but reconsidered some or all of them the next time the HEA reauthorization comes up? We can get the GAO to do a report during these next 6 years.

It seems to me that it is—not making the changes permanent does two things. It would enable schools to prove themselves, and we can address concerns that some have had with accountability and stability of the schools.

The other thing is, talking with a number of the career colleges, some concern which really didn't come up that much during this discussion was taking money from Title III and Title V, and a lot of the career colleges have said that is not a big issue for them. So I guess I would like the response—I think, on both sides of the aisle, no matter what we are looking at, we are trying to make sure that access, which I think is the important word here, that all students, depending on what college they want to go to, have the ability and the right to go to that particular school.

And the career colleges, in my opinion, I guess because I have good experience in New York with a number of the colleges and have traveled to look at some of the other colleges, that the access is there, and it fits a lot of students. I think that is important. I thing that is what our Committee is supposed to be doing, making sure access and financial help is there.

There is one other thing in the bill, and I don't know if you can answer that right now or not. I will find that out later when we look into the bill a little bit deeper. My understanding is with the career colleges they cannot make a profit and the profits that they do make have to go back to the student and not for brick and mortar, expanding their schools and things like that. Am I understanding that part of the bill?

Mr. MCKEON. Mrs. McCarthy, I just—I will answer that, but if I could just intervene here a little. Mr. Smith needs to leave to catch his plane, and we all know what that is like nowadays. So if we could thank you, Mr. Smith, and excuse you and appreciate your—

Mr. SMITH. I was scheduled at noon, but I enjoyed and was so honored to be a part of the conversation. I would say, in closing, thank you and acknowledge that our organization today is stronger because of the graduates that we are finding at these proprietary schools. We want to see them grow and see them be successful in the future. Thank you. Many blessings.

Mr. MCKEON. To respond to your question, if a proprietary school, the way the bill is currently written, would receive money in a competitive grant, they would have to use it for student services. They couldn't use it to build brick or mortar or to increase the endowment or physical facilities.

Mrs. MCCARTHY. Thank you.

What would you all think about with the question I had asked before?

Mr. MOORE. Well, first off, Congress has the right to reconsider the law at any time; and certainly 5 years hence you must reconsider it. I might be a little nervous with leaving an automatic death sentence on a bill, given, with all due respect, Congress's sometimes not up to time reconsideration. It would be too bad to find

that these changes were working and then they arbitrarily died because of the calendar.

But I think, once again, this is part of a political process, and I think we need to take a look at what it would imply, because I know that is not the consequence you are after. But I think we can take a look. As we go through this deliberation, we would love to sit down with you and get a little more information.

I think in terms of the Title III, Title V, having again run a public community college and knowing how dependent public institutions are on that additional Federal funding above their local taxes and State taxes and Title IV for student tuition, it is unlikely that proprietary schools would even be eligible for those funds. And I can tell you, having been there, that the likelihood of me investing the resources to apply for one of those grants is somewhere between zero and nothing. That is not a good use of my time. If I need to raise money, I will go back out in the capital markets to do that. I am not going to try to do that through Title III and Title V.

Now, having said that, if there is an entitlement that follows students—not the institution but follows students—and there is a body of students that are eligible, they ought not be discriminated against simply because of the institution they are in.

Let me take one more license. The question today was whether or not for-profit students are being treated equitably. I think the very definition of the dual definition answers the question. No, they are not. If there was not a concerted effort to treat for-profit students differently, there would not be two sets of definition of higher education. There would only be a single definition.

Mr. NASSIRIAN. Mrs. McCarthy, if I may, I knew we would come to agreement at some point; and that agreement is at hand. They are not being treated equitably by the judgment of recent history. As I said, the incident of default and disaster is significantly higher for those students who have attended that sector. This isn't Corinthian. Corinthian is actually a fine institution. It is the universalizing of an anecdote, a couple of good apples making us oblivious to the bad apples that may be in the mix.

The organization you may have firsthand experience with, the association of proprietary colleges in the State of New York, that is a fine collection of institutions; and that model of legislation would be perfectly acceptable. The problem is the legislation before the Committee goes vastly beyond that. That is the real issue. I think there is room to compromise and model something along the lines of what you just described.

I don't think the bill as currently proposed does that. Nor do I think experimenting with what is, in fact, a significant life-altering situation for hundreds of thousands of students who may be victimized is a chance we should all take. The burden is on the side that argues for change. Why change the definition?

Mr. NASSIRIAN. Arguments have been made. I don't find them very compelling, for my part. Obviously, the Committee will have to exercise its judgment.

Mrs. MCCARTHY. But that is the reason we have hearings, because this is an ongoing piece of legislation; and that is why we like to reach out to everybody, so that, hopefully, we can hear from

your concerns and then the Committees go back and possibly look at it. I happen to think that we can put safeguards in there to make sure, because this Committee certainly doesn't want to waste its money. So I think that can be worked out in time.

I yield back. Thank you.

Mr. MCKEON. Thank you.

Mr. Tierney.

Mr. TIERNEY. Thank you, Mr. Chairman; and thank the members of the panel for what I think has been a good discussion on this subject that has sort of focused my interest.

I note that the issue raised by Dr. Letteney and Congressman Castle a little bit earlier still troubles me, is why it would be appropriate for funds from the Federal Government, essentially taxpayers' money to fund 100 percent of the profits of private companies, which is essentially what will happen if we pass the 90/10 Rule—and I have not really heard an answer for that, and I have had long discussions with friends that were in favor of this. But it is a philosophical and policy issue that I have not yet heard a distinct answer on as why we would want that to happen.

Mr. Moore do you want to take a shot at that again?

Mr. MOORE. Sure. Well, let me kind of turn the question around. Is it any more morally correct to fund 90 percent—using your analogy, 90 percent of our profits as opposed to 100 percent?

Mr. TIERNEY. Well, I suppose we could eliminate it all.

Mr. MOORE. And I think that is the whole point that we are talking about—

Mr. TIERNEY. Would that be your motion, you know, you want us to take it out? Because I am not sure I am there either. So, I mean, we can keep moving back, but what I want to know is why the last 10 percent when I think our Federal monies are not reaching the places they have to reach in some of our other institutions.

Mr. MOORE. Correct. The point of the issue has nothing to do with funding institutions. It has to do with funding students.

Mr. TIERNEY. I don't buy that. I am sorry. That is a nice comment. Tell me how it is that funding 100 percent isn't going to increase your profits by another 10 percent.

Mr. MOORE. It is not necessarily going to increase the profit by another 10 percent. We will probably reinvest much of that money back into those students.

Right now, if a student can't come up with 10 percent of the cash to go to school, as Mr. Rosen previously mentioned, if they can't pay $100 a month our whatever it is, they can't go to school. Now when we remove that barrier and students step down one more level, then we have to provide additional counseling support for those students. Today, every one of my teachers has to call a student who misses class that day to find out why they are not in class and get them back the next day. Now that is counseling up front and in the face. So if we have students that are even less well-prepared than we have today, the cost of that counseling is going to be even greater than it is today.

Finally—

Mr. TIERNEY. I thank you for your effort on that, but I am not sure that—I am not sure that I buy that aspect of it on that. But—

Mr. MOORE. Well, let me make one more—

Mr. TIERNEY. I am on limited time, so if you can't do it quickly—

Mr. MOORE. I am sorry.

Mr. TIERNEY. If you have to do it quickly. I have got limited time.

Mr. MOORE. OK. Of the roughly $100 million of profit that we will make this year after tax depending on 40 percent, $65 million of that is being plowed back into facilities and support for the students. Nearly everything we make is going back into those students, and none of it is going to shareholders.

Mr. TIERNEY. There is at least—a correlation I think has been noted here earlier between the fact that the heaviest users of Title IV funds and the higher default rates—it may not be a direct causality—I think that—as one gentleman indicated, but there is at least a correlation on that. I am a little surprised that we are moving forward on this and we have yet to see an real data from the Department of Education indicating that eliminating the 90/10—what the effect would be and whether or not any remaining protections against fraud and waste would suffice or would it serve the purpose. I would like to think that we might not move until we had that kind of information on that.

Mr. MOORE. May we work with your staff on helping to provide that?

Mr. TIERNEY. Well, I think you ought to work with the Department of Education to provide it. That is who has to do the work on that.

But let me Dr. Letteney a question here. We have focused here today on proprietary schools, and that is about 7 percent of the highly nontraditional students that attend private for-profit institutions compared to about 64 percent who attend 2-year institutions. Now the community colleges in my district, they have low-income students there to a higher proportion. Those students work, many of them full time, most of them part time at least. We can debate the 90/10 Rule, the 50/50 rule for a long time. But Dr. Letteney, can you tell me in the short time I have left what things can we do that would have a greater impact on opening the doors for those nontraditional students to remain in school, as well as to get into school?

Dr. LETTENEY. I think that because capacity has increased so significantly one of the things that you could do—and I know that you want this to be revenue neutral here, but, obviously, increasing Pell is going to be important in coming years because our students are understanding that without some kind of postsecondary college or training they are not going to do well in the 21st century as competitive workers. And so that is absolutely critical.

I think other things—I would just say to you that the TRIO program has probably been the single most transforming program on my campus that we have ever had to deal with poor students who are unfamiliar with college, because they are getting significant support. So those are items that I would suggest to you.

Certainly, I would also suggest please don't cut the amount of Title III and Title V money that is available to our students. Our community colleges now serve—of all higher education students, we serve 45.9 percent of undergraduate American—African American students and 56 percent of Hispanic American students and

almost 50 percent, 48.6 percent, of all first-generation students. So capacity is going to be an issue for us in the coming years.

Mr. TIERNEY. Thank you.

Dr. LETTENEY. Thank you.

Mr. TIERNEY. Yield back, Mr. Chairman. Thank you.

Mr. MCKEON. Thank you.

Mr. Hinojosa.

Mr. HINOJOSA. Thank you, Mr. Chairman; and I also wish to thank the witnesses for coming before our Committee today.

I would like to say that I am disappointed that this discussion on the treatment of proprietary institutions in the higher education act has been framed as an issue of discrimination. The issue at hand is not whether we are fairly providing assistance to the low-income, to the minority and to the disadvantaged students. It is about whether we are investing institutional capacity building funds and grant assistance in institutions that belong to the low-income, the disadvantaged and the minority communities, institutions that—my State of Texas, for example, has been systematically underfunded to such an extent that the courts had to step in—or in private businesses that exist for the benefit of individuals and shareholders as do the proprietary schools. To frame the issue in the language of civil rights is an affront to those of us who were forced to attend segregated public schools.

I would like to ask two panelists, Dr. Letteney and Mr. Nassirian, to further elaborate on how the proposed single definition of institution of higher education will radically alter our institutional aid programs and discuss the effects that the shifting of the focus and resources will have on the communities that are supposed to be served by these programs.

Start with you, Dr. Letteney.

Dr. LETTENEY. Thank you, Mr. Chairman, Representative Hinojosa.

What we see is simply a dilution of current funding. And I know that you have been a strong champion, Representative Hinojosa of HACU. HACU has been trying to move the amount of Title V money up to at least $100 million. If we have significant numbers of for-profit institutions coming into our current 165 HSI, the pool of that Title V money clearly—that is going to severely affect those Hispanic-serving institutions that serve the majority of Hispanic students who, unfortunately, are also—most students are also low-income students in this country.

And the same goes for Title III. Title III has an even greater impact on 2-year institutions as about 70 percent of the Title III grants go to resource poor 2-year community colleges.

Mr. HINOJOSA. Mr. Nassirian.

Mr. NASSIRIAN. Mr. Hinojosa, I also associate myself with the response you just got; and I want to state for the record our agreement with your observation that the debate is not a substantive one if we begin to worry about the schools to the detriment of the students. Contrary to the assertions made today, aid does not currently and should not follow the student. It doesn't follow the student from an eligible institution to an ineligible institution, for example, and it shouldn't.

The issue of access is critical. We concede, as an organization that has for-profit collegiate institutions in its membership, that access has been enhanced around the margins because of innovations that these institutions have brought to bear on the education market. But the representation that what we want to do, that the solution to this country's coming crisis is to take disproportionately minority students, as luck would have it, and shift them from high-subsidy institutions like the one represented right next to me to low-subsidy ones, I think, is a mistake.

I think we want the minority student population to receive the highest per capita subsidy because that is generally associated with the American dream and the opening of doors, and the notion that we are going to turn them into the likely marketplace where a profit is squeezed out of the system is, candidly, not a particularly credible one.

Mr. HINOJOSA. Well, thank you for answering my question.

I want to tell you that I have come to Congress and I make many of my decisions based on experience and from what I learn from my colleagues.

But I can tell you that, in the region that I come from, from 1974 to 1994 we depended on proprietary schools. We had a double-digit unemployment rate that ranged from 20 to 25 percent in an area that today has one and a quarter million people. We decided that we were going to invest in a community college, South Texas Community College. In just 10 years, it has gone from less than 1,000 students to 16,000 students. The result has been that we have attracted manufacturing companies into our area and that unemployment of 21, 22 percent when I was sworn in is now 10.5 percent. They are telling us that we are producing a trained workforce where, with the proprietary schools that we had, for that 20-year period where we put so much emphasis on them we just could not beat that double-digit, huge, very high unemployment rate.

So I have concerns about how this would impact community colleges and most of our universities and particularly, yes, HSIs and HBCUs. In 1996, we were getting $10 million to recruit Hispanics into colleges. Today, we get $95 million. Where we used to serve 34 universities with HSI money in 1996, today we serve a little over a hundred, but we have 250 of those identified HSIs. So, as you can see, there isn't enough money in the system today, at least not for education. There is for many other things but not for this, and so we have to fight that this money is not diluted and taken away from those that are now beginning to show us some good results after 10 years.

With that, I yield back, Mr. Chairman.

Mr. MCKEON. Thank you. And the gentleman will remember that last reauthorization we helped you to get the special title for HSI, and I have been very supportive of reaching out to the Hispanics and helping them in their education.

One thing that disturbs me—and it sounds like we are kind of getting to where we are fighting between proprietary and community college. I have been a strong supporter of community college. That is not the issue, and that is why I asked the question: If we took the money out of that equation, do we have the problem with the single definition? And I think we need to remember that.

This bill—we will, I am sure, have some changes as we go through the process. But I think that Mr. Moore pointed out that he probably wouldn't even compete for those funds.

What we are talking about, last year, we provided—the Federal Government and the lending institutions provided $70 billion for higher education across the country. Title III was how much? $95 million? $100 million? Between Title III and Title V we are talking about $200 million out of $70 billion. So I think we—and if we took that money out of it, you know, I think we could work this out.

Mr. Wu.

Mr. WU. Thank you, Mr. Chairman.

I understand that with Mr. Hinojosa's inquiry we might be coming around to the single-definition issue for a third time in this hearing. But I am just trying to drill down and try to understand this a little bit better, because I did have someone come to my office after the person had visited Mr. Hinojosa.

Some of the arguments on either side of this issue I find less illuminating than I would like. Because on the community college side the argument seems to be that there is a thinning of the soup, and we don't want to thin the soup any further; and on the other side of this issue, there is the argument that Mr. Hinojosa similarly found not completely convincing which was to cast this as a civil rights issue.

I would like to just give you all an opportunity again to further address this single-definition issue, and I would like to throw it back to the panel with this additional inquiry, and that is, if we were to hold current institutions harmless in terms of thinning the soup, how much additional resources would we have to throw in in order to keep the soup, if you will, of the same consistency?

I would like to ask that question but also just give you all a further chance to address the single-definition issue and include Dr. Letteney and Mr. Nassirian and Mr. Moore to give you all—but all four of you a chance to address this, if you would like.

Mr. ROSEN. Well, I can start off by saying I would join with Mr. Moore and say I can't imagine that we would be seeking the Title III or Title V funds. It is just so unlikely as to be hard to imagine. So, for us, it is much more an issue of simplifying—to call it a civil rights issue is way overstating it. But to say that—

Mr. WU. Well, that wasn't my characterization. That was the characterization of someone who came to my office, allegedly to speak on behalf of proprietary schools.

Mr. ROSEN. Well, OK. Then I disagree with that characterization.

It is one of differential treatment, and that is a real issue. But it is mainly a symbolic issue, and it also is an issue of confusion. That is, there are a number of States that follow the Federal definition, and I have talked to legislators who don't even realize that they are excluding important elements of their local economies because they don't realize that for-profit institutions are not included in State definitions. So I think there is just confusion surrounding it.

When it gets to the actual funding, each funding program has its own definitions, its own mission; and some of them are institutionally based. Unlike the Title IV funds which follow the students, some of these are about institutions; and I think that within the

definition of the programs we can talk about which institutions are appropriate to get the money.

Dr. LETTENEY. Mr. Chairman, Representative Wu, I think one of the issues that we are concerned about is not only the extension of for-profits to apply for Title III and Title V funds—and according to my information, the expenditures in Title III were $81 million this year—

Mr. WU. I am sorry. Could you repeat that?

Dr. LETTENEY.—and in Title V, $94 million.

Mr. WU. What was the first one?

Dr. LETTENEY. $81 in Title III and $94 in Title V.

So, I mean, by your definitions that may not be a lot of money. I mean, to some of us that is a lot of money.

Mr. MCKEON. If the gentlelady will yield—if the gentleman will yield, I didn't want to refer it. I have not been here long enough yet to say $190 million is not a lot of money. I said, in proportion to the $70 billion that we put into the program. There has been no argument between moving Pell Grants from student—you know, following the student. But, again—

Dr. LETTENEY. I think one of our major concerns about this issue is what we have talked about before, its unintended consequences. We do not know how many programs—how many legislative programs would then be open to for-profit institutions because a list has not been made available. So that analysis, as far as our association knows, has not been done yet. We assume that NSF grant funds would be available, would be open, health and human services grants would be open, we assume that grants in other Federal programs would be open, but we don't know that this research has been done yet, and we don't know that other Committees who have jurisdiction under these other grant programs are even aware of the impact of the change of this definition.

Mr. WU. Mr. Chairman, with your indulgence, I would like to give Mr. Nassirian and Mr. Moore a chance to answer the question, even though my time has expired.

Mr. NASSIRIAN. Mr. Wu, beyond the redistributive effect, there is sort of an extremism to what the pending legislation does which is susceptible to compromise. I think the Chairman might have misspoken when he suggested that the bill limits the definition to degree granting. I think that would be something we could all kind of coalesce around after some discussion. But the bill, as drafted, and I am reading it right now, does in fact allow programs that are not shorter than 1 year—

Mr. MCKEON. Degree granting for Title III and V.

Mr. NASSIRIAN. I am speaking about the single definition, not so much participation in III and V but in general. The concept of calling—

Mr. MCKEON. As currently written, single definition only applies—I mean, for III and V, it would have to be degree-granting institutions.

Mr. NASSIRIAN. Correct. But I think the issue was whether we can support—whether—leaving monetary redistributive effects aside, whether the definition as such is agreeable. And I respectfully submit to you that a 1-year nondegree granting certificate program shouldn't be called an institution of higher education. It

should be called what it is. I mean, why do we want to do violence to the language? I don't think that is the intent.

If there is nothing but a matter of substantive change that is justified on the basis of real analogous sort of programs being offered in two different settings, certainly that can be called an institution of higher education. But the bill as currently written defines institution of higher education a little too broadly, and it should be perhaps whittled down to something that we can all support.

Mr. MOORE. A major source of funding for universities and colleges from Harvard to Cal State Fullerton—not to pick on Fullerton—are less than 1- year certificates that are granted out of their graduate schools. Are we suggesting that because they are less than 1 year that we are going to eliminate those programs from the provisions of Title III and V? And obviously we are not.

The issue here has little to do with the nature of the institution. Somehow we have gotten ourselves adrift here. We are trying to do a comparison between the value of community colleges versus for-profit schools, versus others; and that is not the purpose of what this bill is. This bill is to look at providing access to low-income and middle-income students that otherwise are being denied access to an education because of financial reasons. There could be 10,000 other reasons why they can't get there, but the purpose of this bill is to deal with the financial support for those students. So the purpose of what we are dealing with is to provide that access.

Now, if, in fact, providing that access to a student means that there is enough students attending a for-profit school to make those students eligible for a program not currently there and that school wants to apply for that grant fund, I don't know why they should be denied it. But, as I said earlier, frankly I can't imagine any for-profit school turning to that as a source for infrastructure money. That is all it can be used for when there is other sources.

Not to brag, but I have a $230 million line of credit that I can write checks on any time I want. That is more than the entire entitlement that the Chairman is talking about. So why would I be concerned about trying to draw down Federal monies to support my development? And I am one of the smaller companies in the sector.

So I think we are allowing a certain amount of emotion about damaging somebody who isn't going to be damaged, at the same time denying the opportunity to protect students who, simply because they are low-income, taking aside any kind of discriminatory issue, just the fact that they are low-income, they are not eligible for a program that they ought to be eligible for. So, you know, it is purpose, purpose, purpose. What we are talking about here is student access and providing equal access to students across a variety of menus, which includes for-profit, community colleges, endowment-supported schools and tax-supported schools.

Mr. WU. I thank you for your forbearance, Mr. Chairman, and thank the panel for its answers. I am afraid I am in a markup right now and have just been notified I have missed at least one vote up over there, so if you will excuse me. Thank you, Mr. Chairman.

Mr. MCKEON. Well, thank you very much; and I want to thank the witnesses. I think it has been very enlightening, I think it has

been very productive, and I hope we will be able to, as we move forward, continue to have more of these—you want a UC request?

Mr. KILDEE. Yes, Mr. Chairman. I ask unanimous consent that a letter from the American Federation of Teachers be included in the record of this hearing.

Mr. MCKEON. No objection. So ordered.

[The information referred to follows:]

Letter from the American Federation of Teachers

June 16, 2004

The Honorable George Miller
Ranking Member
Committee on Education and the Workforce
United States House of Representatives
2101 Rayburn House Office Building
Washington, DC 20515–6100

Dear Representative Miller:

On behalf of the 1.3 million members of the American Federation of Teachers (AFT), including the 130,000 higher education professionals, I write to express our strong opposition to specific provisions in H. R. 4283, the College Access and Opportunity Act of 2004, which are the focus of today's hearing on for-profit institutions. We appreciate the opportunity to share our views with you.

In general, the AFT believes this legislation falls short of the historical mission of the Higher Education Act (HEA), which since 1965 has opened the doors to higher education for students regardless of their financial circumstances. Unfortunately, H. R. 4283 exacerbates existing deficiencies in the HEA rather than improving current law.

In addition to the lack of increase in the Pell Grant or any support for the growing nontraditional student population, the AFT is concerned with the attention given to for-profit institutions. Unfortunately, H. R. 4283 promotes the financial interests of the for-profit higher education industry at the expense of the needs of students. This is evident in the proposal to change rules and definitions that would open more federal dollars to for-profit institutions. For more than a decade, these guidelines have ensured that student and institutional aid goes to low- and middle-income students, while also protecting our federal financial-aid system from fraud and abuse.

H. R. 4283 calls for a "single definition" of an institution of higher education (IHE). This would make all IHEs, including for-profit institutions, eligible for Title IV programs that currently provide institutional aid to public and private nonprofit colleges and universities serving large numbers of minority and other nontraditional students. Under current law, many for-profits are not eligible to participate in these programs.

In addition, the bill would repeal a legal provision that prohibits students who attend institutions offering more than half their coursework by distance education from receiving federal student aid. The AFT joins other higher education associations representing faculty and administrators in opposing changing this 50 percent rule, which has served to ensure integrity in federal student financial-aid programs and promote "face-to-face" interaction as part of a student's college education. It is well established that current funding for public colleges and universities, as well as for federal student aid, is inadequate. Making a new universe of institutions eligible for student aid, as suggested in H. R. 4283, without imposing safeguards aimed at preventing fraud and abuse would be highly irresponsible.

The AFT believes that the federal government should collect more information and study the impact of lifting the 50 percent rule before considering such a dramatic change. We support comprehensive research that evaluates the quality of distance learning, the students it is serving, and how federal aid programs will be affected by the expansion of student-aid eligibility to distance learning. We believe Congress needs to address these and other relevant questions before moving in this direction.

Finally, we oppose the lifting of the so-called 90/ 10 Rule which mandates that for-profit schools demonstrate that 10 percent of their revenue is derived from sources other than federal student-aid funds. The 90/10 Rule was put into effect to ensure that federal student aid was not the sole funding stream for these schools. As a result of the implementation of that rule, fraud and abuse in federal student

aid programs were drastically reduced. There is no evidence to believe this protection is no longer necessary.

The AFT believes that the current HEA reauthorization represents a tremendous opportunity to improve access to higher education for America's low- and middle-income students. It should not be reduced to an exercise in improving access to federal aid for private entrepreneurs. To this end, we look forward to working with you on these issues of great importance to AFT higher education professionals and the students they serve. If you have further questions, please contact me or Gabriella Games of the AFT legislative staff at (202) 879–4452.

Thank you for considering our views on H. R. 4283.

Sincerely,

Charlotte J. Fraas
Director, Legislation Department
American Federation of Teachers

Mr. McKEON. Thank you very much for being here, and this hearing is now adjourned.

[Whereupon, at 1 p.m., the Committee was adjourned.]

[Additional material submitted for the record follows:]

Press Release from Hon. George Miller, Ranking Member, Committee on Education and the Workforce

FOR IMMEDIATE RELEASE: Wednesday, June 16, 2004
CONTACT: 202-225-2095, Tom Kiley or Daniel Weiss

REPUBLICAN HIGHER EDUCATION BILL REMOVES BARRIERS TO FRAUD & WASTE, SAYS REP. MILLER

WASHINGTON, D.C.—Rep. George Miller (D–CA), the senior Democrat on the House education committee, today issued the following statement on Republican higher education proposals that would eliminate safeguards against fraud and waste at for-profit institutions of higher education. These proposals were the focus of a full committee hearing this morning.

"Today's hearing focuses on the significant changes that the College Access and Opportunity Act, H.R. 4283, makes to institutional integrity provisions under current law.

"In particular, this hearing focuses on for-profit schools and asks whether or not students at these institutions receive equitable treatment. Under current law, all eligible students are treated equitably, regardless of whether they attend a for-profit or non-profit institution.

"Therefore, the real question we should be asking is: 'What is the right balance between granting schools flexibility and ensuring that the appropriate safeguards are in place to protect student and taxpayers from fraud and abuse?'

"For-profit institutions have participated in the federal student aid programs for more than 30 years. They have been the forerunners of many innovations–such as on-line courses, accelerated course time and flexible scheduling for non-traditional students–that have been instrumental to increasing access to higher education for students.

"The same business model that allows for-profit schools to innovate can also breed the types of rampant fraud and abuse that occurred in the 1980s and early 1990s, absent sensible safeguards. As a result of these widely documented abuses and ballooning student loan default rates, in 1992 Congress enacted a series of protections and integrity measures to safeguard students and taxpayers.

"The good news is that when appropriately enforced by the Department of Education, these protections have successfully stopped most fraudulent and abusive practices in the student aid programs. The bad news is that, although significant problems still exist, many of these protections have been substantially weakened. The College Access and Opportunity Act indiscriminately eliminates key safeguards such as the 90–10 Rule.

"In addition, for the first time the Act makes limited federal funds for minority serving institutions–with dedicated public interest missions–available to for-profit entities. As a result, funding long reserved for community colleges and Minority Serving Institutions will be cut, just at a time when these schools are struggling to meet the needs of their growing populations.

"I support easing the transfer of credit process for all students at both for-profit and non-profit schools. However, the Republican bill makes changes to the transfer of academic credit that could result in students losing financial aid eligibility and hurt the integrity of the transfer process.

"Flexibility and innovation in higher education must be balanced against the danger of repeating past abuses, otherwise we will end up placing students in harm's way and wasting taxpayer dollars.

"Unfortunately, the College Access and Opportunity Act not only eliminates important fraud and abuse safeguards in the student aid programs, but it doesn't even come close to living up to its name. Instead it makes college more expensive for millions of low- and middle-income students and their families as they continue to struggle to cover rising college costs.

"This bill actually forces students to pay thousands of dollars more for their college loans, caps the maximum Pell Grant and fails to provide meaningful relief from rising tuition prices. At a time of rising college costs, high unemployment and the worst job creation record in 30 years, we should not be forcing students and their families to pay more for a college education.

"We should not and we cannot afford to take this path. I urge my colleagues to reject this bill as it is now drafted."

Statement of Hon. Charlie Norwood, a Representative in Congress from the State of Georgia

Mr. Chairman, I thank you for holding today's hearing to further examine the many important issues facing higher education today, and more specifically, to explore the evolving issues that impact students who attend proprietary institutions of higher learning. The Committee on Education and the Workforce has an excellent opportunity to increase equity for every American student seeking higher education as we continue the reauthorization process for the Higher Education Act (HEA), and I appreciate the opportunity to learn from today's extraordinary panel of witnesses in shedding additional light on how the College Access and Opportunity Act (H.R. 4283) can achieve that goal.

Mr. Chairman in today's rapidly changing economy that relies on a highly trained and technologically advanced workforce, many students are charting a different course to obtain an education that will prepare them for the jobs of the future. And while traditional four and two-year public schools continue to play a critical role in contributing to the 21st Century workforce, proprietary institutions throughout America are playing an increasing role every year in educating our emerging young leaders. Many such students choose to study at proprietary institutions that focus chiefly on technology and vocational skills. Still others focus on arts and the humanities. Yet regardless of their focus, these fully accredited for-profit institutions offer an attractive alternative to traditional public universities for American students today.

Yet many questions remain unanswered regarding federal higher education policy and how it currently serves students who choose to attend a proprietary school. Does the federal government treat these students fairly and equitably? Are they receiving their fair-share of federal higher education funding that will contribute to their academic achievement? Should Congress change long-standing federal policy in order to allow for-profit institutions to apply for competitive grants within HEA?

In reauthorizing the HEA for the next six years, the College Access and Opportunity Act (H.R. 4283) tackles these questions head on by dramatically altering federal policy in regards to proprietary institutions. Most notably, the legislation includes three provisions that address institutional eligibility, distance education and accreditation: implementation of a "Single Definition" of an institution of higher learning, the repeal of the "90–10 Rule" for proprietary schools and the repeal of the "50% Rule" for distance education.

I look forward to hearing our witness' thoughts on these critical issues that H.R. 4283 addresses. As this Committee continues to study the HEA reauthorization, Congress must find an appropriate solution to ensure equity and fairness for students attending proprietary schools; yet it must do so without jeopardizing needed funding for students attending traditional public schools.

Thank you Mr. Chairman and I yield back.

Statement of Hon. Jon Porter, a Representative in Congress from the State of Nevada

Good Morning, Mr. Chairman. Thank you for convening this second hearing on the committee's legislation to reduce the burdens and eliminate the roadblocks facing our students as they attempt to achieve post-secondary education. I also welcome our panel of witnesses today and thank them for their testimony on the equality of access between for-profit and non-profit schools and how this will change under the proposed legislation.

Ensuring an environment where students, whether high school graduates or adults attempting to enter different sectors of the workforce, encounter equitable access to higher education is one of this committee's highest priorities. As we continue to embrace today's ever-globalizing and increasingly skill-based economy, we must provide Americans with the access to high-quality and affordable post-secondary education.

I look forward to hearing from our panel of witnesses today, as they help clarify how current restrictions on proprietary institutions impact student access to these schools that provide many with the skills they need to progress in their current careers and pursue more sophisticated and satisfying new occupations.

My state of Nevada provides a perfect example of the need to utilize all avenues of education in bringing our workforce into the twenty-first century. Our explosive population growth requires that all Nevadans are able to find the training and resources necessary to excel in the knowledge-based economy in which they find themselves. We must look to both proprietary and traditional colleges and institutions of higher learning to provide our workforce with the highly-skilled, professional individuals that will allow for Nevada's, and America's, continued economic and industrial growth.

Mr. Chairman, I look forward to the testimony of our distinguished panel and look forward to continuing the work that our committee does in preparing Americans for the workforce that they will confront today and the years to come.

Statement of American Association of Collegiate Registrars and Admissions Officers, the American Council on Education, and the Council for Higher Education Accreditation

The following set of guidelines has been developed by the three national associations whose member institutions are directly involved in the transfer and award of academic credit: the American Association of Collegiate Registrars and Admissions Officers, the American Council on Education, and the Council for Higher Education Accreditation. The need for such a statement came from an awareness of the growing complexity of transfer policies and practices, which have been brought about, in part, by the changing nature of postsecondary education. With increasing frequency, students are pursuing their education in a variety of institutional and extrainstitutional settings. Social equity and the intelligent use of resources require that validated learning be recognized wherever it takes place.

The statement is thus intended to serve as a guide for institutions developing or reviewing policies dealing with transfer, acceptance and award of credit. "Transfer" as used here refers to the movement of students from one college, university or other education provider to another and to the process by which credits representing educational experiences, courses, degrees or credentials that are awarded by an education provider are accepted or not accepted by a receiving institution.

Basic Assumptions

This statement is directed to institutions of postsecondary education and others concerned with the transfer of academic credit among institutions and the award of academic credit for learning that takes place at another institution or education provider. Basic to this statement is the principle that each institution is responsible for determining its own policies and practices with regard to the transfer, acceptance, and award of credit. Institutions are encouraged to review their policies and practices periodically to assure that they accomplish the institutions' objectives and that they function in a manner that is fair and equitable to students. General statements of policy such as this one or others referred to, should be used as guides, not as substitutes, for institutional policies and practices.

Transfer and award of credit is a concept that increasingly involves transfer between dissimilar institutions and curricula and recognition of extra-institutional learning, as well as transfer between institutions and curricula with similar characteristics. As their personal circumstances and educational objectives change, students seek to have their learning, wherever and however attained, recognized by in-

stitutions where they enroll for further study. It is important for reasons of social equity and educational effectiveness for all institutions to develop reasonable and definitive policies and procedures for acceptance of such learning experiences, as well as for the transfer of credits earned at another institution. Such policies and procedures should provide maximum consideration for the individual student who has changed institutions or objectives. It is the receiving institution's responsibility to provide reasonable and definitive policies and procedures for determining a student's knowledge in required subject areas. All sending institutions have a responsibility to furnish transcripts and other documents necessary for a receiving institution to judge the quality and quantity of the student's work. Institutions also have a responsibility to advise the student that the work reflected on the transcript may or may not be accepted by a receiving institution as bearing the same (or any) credits as those awarded by the provider institution, or that the credits awarded will be applicable to the academic credential the student is pursuing.

Inter–Institutional Transfer of Credit

Transfer of credit from one institution to another involves at least three considerations:

(1) the educational quality of the learning experience which the student transfers;

(2) the comparability of the nature, content, and level of the learning experience to that offered by the receiving institution; and

(3) the appropriateness and applicability of the learning experience to the programs offered by the receiving institution, in light of the student's educational goals.

Accredited Institutions

Accreditation speaks primarily to the first of these considerations, serving as the basic indicator that an institution meets certain minimum standards. Users of accreditation are urged to give careful attention to the accreditation conferred by accrediting bodies recognized by the Council for Higher Education Accreditation (CHEA). CHEA has a formal process of recognition which requires that all accrediting bodies so recognized must meet the same standards. Under these standards, CHEA has recognized a number of accrediting bodies, including:

(1) regional accrediting commissions (which historically accredited the more traditional colleges and universities but which now accredit proprietary, vocational-technical, distance learning providers, and single-purpose institutions as well);

(2) national accrediting bodies that accredit various kinds of specialized institutions, including distance learning providers and freestanding professional schools; and

(3) professional organizations that accredit programs within multipurpose institutions.

Although accrediting agencies vary in the ways they are organized and in their statements of scope and mission, all accrediting bodies that meet CHEA's standards for recognition function to ensure that the institutions or programs they accredit have met generally accepted minimum standards for accreditation.

Accreditation thus affords reason for confidence in an institution's or a program's purposes, in the appropriateness of its resources and plans for carrying out these purposes, and in its effectiveness in accomplishing its goals, insofar as these things can be judged. Accreditation speaks to the probability, but does not guarantee, that students have met acceptable standards of educational accomplishment.

Comparability and Applicability

Comparability of the nature, content, and level of transfer credit and the appropriateness and applicability of the credit earned to programs offered by the receiving institution are as important in the evaluation process as the accreditation status of the institution at which the transfer credit was awarded. Since accreditation does not address these questions, this information must be obtained from catalogues and other materials and from direct contact between knowledgeable and experienced faculty and staff at both the receiving and sending institutions. When such considerations as comparability and appropriateness of credit are satisfied, however, the receiving institution should have reasonable confidence that students from accredited institutions are qualified to undertake the receiving institution's educational program. In its articulation and transfer policies, the institution should judge courses, programs and other learning experiences on their learning outcomes, and the existence of valid evaluation measures, including third-party expert review, and not on modes of delivery.

Admissions and Degree Purposes

At some institutions there may be differences between the acceptance of credit for admission purposes and the applicability of credit for degree purposes. A receiving

institution may accept previous work, place a credit value on it, and enter it on the transcript. However, that previous work, because of its nature and not its inherent quality, may be determined to have no applicability to a specific degree to be pursued by the student. Institutions have a responsibility to make this distinction, and its implications, clear to students before they decide to enroll. This should be a matter of full disclosure, with the best interests of the student in mind. Institutions also should make every reasonable effort to reduce the gap between credits accepted and credits applied toward an educational credential.

Additional Criteria for Transfer Decisions

The following additional criteria are offered to assist institutions, accreditors and higher education associations in future transfer decisions. These criteria are intended to sustain academic quality in an environment of more varied transfer, assure consistency of transfer practice, and encourage appropriate accountability about transfer policy and practice.

Balance in the Use of Accreditation Status in Transfer Decisions. Institutions and accreditors need to assure that transfer decisions are not made solely on the source of accreditation of a sending program or institution. While acknowledging that accreditation is an important factor, receiving institutions ought to make clear their institutional reasons for accepting or not accepting credits that students seek to transfer. Students should have reasonable explanations about how work offered for credit is or is not of sufficient quality when compared with the receiving institution and how work is or is not comparable with curricula and standards to meet degree requirements of the receiving institution.

Consistency. Institutions and accreditors need to reaffirm that the considerations that inform transfer decisions are applied consistently in the context of changing student attendance patterns (students likely to engage in more transfer) and emerging new providers of higher education (new sources of credits and experience to be evaluated). New providers and new attendance patterns increase the number and type of transfer issues that institutions will address—making consistency even more important in the future.

Accountability for Effective Public Communication. Institutions and accreditors need to assure that students and the public are fully and accurately informed about their respective transfer policies and practices. The public has a significant interest in higher education's effective management of transfer, especially in an environment of expanding access and mobility. Public funding is routinely provided to colleges and universities. This funding is accompanied by public expectations that the transfer process is built on a strong commitment to fairness and efficiency.

Commitment to Address Innovation. Institutions and accreditors need to be flexible and open in considering alternative approaches to managing transfer when these approaches will benefit students. Distance learning and other applications of technology generate alternative approaches to many functions of colleges and universities. Transfer is inevitably among these.

Foreign Institutions

In most cases, foreign institutions are chartered and authorized to grant degrees by their national governments, usually through a Ministry of Education or similar appropriate ministerial body. No other nation has a system comparable with voluntary accreditation as it exists in the United States. At an operational level, AACRAO's Office of International Education Services can assist institutions by providing general or specific guidelines on admission and placement of foreign students, or by providing evaluations of foreign educational credentials.

Evaluation of Extra–Institutional and Experiential Learning for Purposes of Transfer and Award of Credit

Transfer and award of credit policies should encompass educational accomplishment attained in extra-institutional settings. In deciding on the award of credit for extra-institutional learning, institutions will find the services of the American Council on Education's Center for Adult Learning and Educational Credentials helpful. One of the Center's functions is to operate and foster programs to determine credit equivalencies for various modes of extrainstitutional learning. The Center maintains evaluation programs for formal courses offered by the military and civilian organizations such as business, corporations, government agencies, training providers, institutes, and labor unions. Evaluation services are also available for examination programs, for occupations with validated job proficiency evaluation systems, and for correspondence courses offered by schools accredited by the Distance Education and Training Council. The results are published in a Guide series. Another resource is the General Educational Development (GED) Testing Program, which provides a means for assessing high school equivalency.

For learning that has not been evaluated through the ACE evaluation processes, institutions are encouraged to explore the Council for Adult and Experiential Learning (CAEL) procedures and processes.

Uses of This Statement

Institutions are encouraged to use this statement as a basis for discussions in developing or reviewing institutional policies with regards to the transfer and award of credit. If the statement reflects an institution's policies, that institution may wish to use these guidelines to inform faculty, staff, and students.

It is also recommended that accrediting bodies reflect the essential precepts of this statement in their criteria.

American Association of Collegiate Registrars and Admissions Officers

American Council on Education

Council for Higher Education Accreditation

Statement of Rolf Th. Lundberg, Jr., Senior Vice President, Congressional and Public Affairs, United States Chamber of Commerce on behalf of The Coalition for a Competitive American Workforce

Mr. Chairman, Mr. Miller and members of the Committee, I am grateful for the opportunity to offer my thoughts, on behalf of the U.S. Chamber's Coalition for a Competitive American Workforce, regarding the inequities in the Higher Education Act of 1965, as amended (HEA), as well as the proposed modifications outlined in H.R. 4283, "The College Access and Opportunity Act".

In order to provide some context for my comments, it is important to begin by discussing the challenges employees and employers face, as they strive to build and maintain a competitive American workforce.

Across America, employers of all sizes share the view that a skilled workforce is essential to maintaining competitiveness. A business' quality, productivity and profitability depends upon its ability to hire, train and retain qualified workers, who can perform on the job today and adapt to the new demands of tomorrow. It should concern us that State and local chambers of commerce report that workforce development is consistently among the top three problems for their business members.

Over the past three years, The U.S. Chamber's Center for Workforce Preparation has conducted surveys of small and medium-sized businesses. These surveys found that employers are experiencing difficulty in finding qualified workers due to the lack of skills possessed by job applicants. Even more revealing were employers' responses when asked about the ability of their current workforce to meet their future skill requirements. About 30% of the employers surveyed indicated that, within two years, their employees' skills would be outpaced by competitive demands.

Technology, demographics and diversity have brought far-reaching changes to the U.S. economy and the workplace, increasing demand for a well-educated and highly skilled workforce. In 1950, eighty percent of jobs were classified as "unskilled"; today, an estimated eighty-five percent of all jobs are classified as "skilled". Today, few working adults have the education and skills required for the knowledge economy—only 40 percent of adults in the workforce in 2000 had any postsecondary degree, associate or higher. In this decade 40 percent of job growth will be in jobs requiring postsecondary education; those requiring associate degrees growing the fastest. Hedrick Smith states that, "60% of our corporations are prevented from upgrading technologically by the low...educational and technical skill levels of our workers." Clearly, there is a greater need for more educated and highly skilled workers than ever before.

One might think the answer lies in simply replacing unqualified workers with new, more qualified workers because that has been the response over the past twenty years. From 1980 to 2000, the size and skill of the workforce grew significantly. Baby boomers were in their prime employment years, women entered the labor force in large numbers, and the number of college-educated workers more than doubled. However, these trends have ended.

The native-born workforce is aging—no new net growth is expected through 2020 in prime age workers. Immigrants and those workers remaining in the workforce longer than expected will account for all net workforce growth between now and 2020. Between the years 1980 and 2000, growth in workers with education beyond high school was 138%. Between 2000 and 2020 it is projected to be only 19%. Most of the 2020 workforce is already beyond reach of the K–12 system, which means employers and workers will need to rely on postsecondary education to upgrade skills.

These findings suggest the severity of the current workforce challenges is just a precursor to a disconcerting future. It is estimated that sixty percent of tomorrow's

jobs, while involving variations of current business operations and practices, will continue to reflect the rapid advance of technology, requiring skills that are only possessed by twenty percent of today's workers. Many of tomorrow's jobs—estimated at forty percent—don't exist today. These jobs will most certainly require a workforce of highly educated workers, utilizing skills that have not yet been identified in fields and operations that today are only being discussed in theory. These forecasts have led experts and analysts to project that in the future, 4 out of every 5 jobs will require postsecondary education or equivalent training and that seventy-five percent of the today's workforce will need to be retrained just to keep their current jobs.

However, if we are to correct these deficiencies, remedy the current workforce dilemma and alleviate the threat to American competitiveness and our economy, it is not enough to just consider the challenges confronting employers. It is critical that we also have an accurate understanding of the make-up of our workforce, appreciate current and prospective employees' needs and recognize the obstacles workers and students encounter in the pursuit of their own dreams and career aspirations.

Seventy-three percent of all postsecondary students are non-traditional students. That is to say, they are not individuals who graduate from high school, immediately attend a four-year college or university and depend on their parents for financial support. This large and growing segment of our population is mostly comprised of working adults who are seeking additional education and training to return to the workforce, remain current in their field, increase their earnings potential, pursue another job or consider a career change in today's demanding economy.

During 1999–2000 almost three quarters of American undergraduates were non-traditional in some way:

- More than half (51%) were financially independent
- Almost half (46%) delayed enrolling in college
- 39% were adults 25 years of age or older
- Almost half attended part-time (48%)
- 39% worked full time
- Just over one-fifth (22%) had dependents; 13% were single parents.

In 1999–2000 most non-traditional students (82%) age 24 or older worked. Over 80 percent report that gaining skills to advance their current job or future career was an important consideration in their postsecondary education. Roughly one-third enrolled to obtain additional education required by their jobs.

From 1991 to 1999, the number of adults participating in some form of education increased from 58 million to 90 million. Almost 45 million were taking work-related courses and 18 million were seeking formal postsecondary credentials during this same period.

When the Higher Education Act was enacted in 1965, a recognized purpose of the Act was the development of the workforce directly out of high school. These policies did not anticipate the role postsecondary education would have in the ongoing advancement of working adults.

To a greater extent than ever before, employers and workers are relying on postsecondary education to address the ever-increasing skill demands of a competitive American economy.

Yet, many of our higher education policies and institutions only focus on the needs of traditional students, and, in doing so, these policies and our colleges and universities are failing the non-traditional and working adult students as well as one of the principal purposes of the Higher Education Act.

Working adults are trying to balance careers, family responsibilities, financial and other personal obligations to get the education they need to advance in the workforce. They often cannot afford to reduce their hours on the job and risk losing valuable wages while incurring additional expenses, such as tuition and childcare.

Similarly, at the same time that employers need their employees to keep pace with the escalating skill demands of the workplace, they are not able to interrupt their operations for employees who are attending classes that make them unavailable during normal business hours. This is particularly true for small and medium-sized businesses.

With longer workweeks, there is limited time for education and training, and employees find it difficult to sustain even a part-time commitment over a period of 15 weeks—the length of the traditional college semester. It is understandable then that working adults and their employers overwhelmingly prefer short, intensive programs

Employees and employers are seeking curriculums and training programs that impart relevant knowledge and skills that have a practical application in the workplace. The availability of flexible and modularized programs is key to meeting these needs.

Mr. Chairman, any meaningful strategy to combat these workforce challenges must begin with a comprehensive education and workforce development system that incorporates the realities of a global economy. We are already attempting to improve our K–12 system, making it more competitive with other industrialized nations and leading to a more knowledgeable and highly skilled American workforce in the coming decades.

However, it is equally important to note that the deficiencies and challenges within the existing workforce—individuals who are beyond the reach of on-going K–12 initiatives—also demand immediate attention. Absent a sustained investment in a comprehensive educational system that is responsive to the needs of employers and their incumbent workers, the American workforce will be ill-equipped to compete in the global economy, American businesses will become less profitable and the nation's economic security less certain.

It is, therefore, imperative that employees have access to continuing education and training that is flexible and responsive to the rapid changes in the marketplace. Lifetime education and training is no longer an option, it is a necessity—for individuals, for employers and for the economy.

The strength of America's postsecondary education system is the diversity and types of institutions providing courses, programs and training" two and four year, public and private, and non-profit and for profit. However, some institutions are better able than others to provide coursework that is relevant to the workplace and to adjust more quickly to the needs of employers with just-in-time training.

One example, of the more relevant, responsive and adaptable institutions that have evolved to supply this demand for educated and skilled employees and to rectify workforce deficiencies can be found in the schools of the enterprising, market-oriented postsecondary education and training companies. These private sector postsecondary institutions have developed focused, market-responsive and innovative approaches that result in immediate and effective improvements in the workforce.

Proprietary postsecondary education companies offer working adults access to quality, affordable, convenient and flexible educational opportunities. In addition, the industry provides employers more realistic options, such as the ability to work with proprietary companies in a cooperative effort to develop timely, relevant and flexible studies and programs, which address deficiencies and improve the quality of their employees.

The Chamber has partnered with Corinthian Colleges, Inc., Capella, Inc., DeVry Inc., and Kaplan, Inc. to form The Coalition for a Competitive American Workforce (CCAW). The U.S. Chamber's partners in CCAW are leaders among these market-oriented, innovative companies that contribute to the nation's economic development. Like other private enterprises, they operate to make a profit for their shareholders. They employ thousands of instructors, job placement counselors, admissions representatives, and other personnel. They pay federal, state and local taxes. They have grown by accessing private and public capital markets and by reinvesting the income generated from providing educational services to students. Their success demonstrates how free enterprise goals can harmonize with a public mission: to provide career-focused degree and non-degree programs for students seeking educational and economic advancement and to provide American business and industry with a skilled and knowledgeable workforce.

Critical financing that enables individuals to pay for the education and training offered by these companies comes from the student financial assistance programs authorized by the HEA of 1965, as amended (HEA). These programs include guaranteed student loans, direct loans from the federal government, and Pell Grants for those with substantial financial need. The HEA's goals of expanding access to postsecondary education and training, improving its affordability, and demanding accountability for institutions' use of the public's funds match well with the focus and achievements of the members of the Coalition.

The proprietary postsecondary education companies comprising the membership of CCAW provide a vital means by which both those seeking to enter the workforce and those needing to retrain or upgrade knowledge and skills can better their lives.

However, a number of provisions in the HEA are outdated and impede adult workers' access to education and training and limit the ability of proprietary postsecondary education institutions to provide innovative solutions to America's workforce needs. The reauthorization of the HEA provides an opportunity, at a critical juncture in the development of the economy, for the members of this Committee and this Congress to modernize the Act to meet the new competitive demands of the 21st century.

Mr. Chairman, your bill, H.R. 4283, includes four key modifications to the HEA that will enable proprietary postsecondary educational institutions to better serve non-traditional students, significantly improving our nation's ability to maintain a

competitive workforce and helping to meet the new competitive demands of the 21st Century.

First, H.R. 4283 proposes to remove restrictions on the availability of financial aid to students in online education programs.

The HEA currently equates online education with correspondence schools and imposes arbitrary 50% rules that impede the offering of fully online education programs. The Web–Based Education Commission, the U.S. Department of Education, and Congress itself have all found that online education is an effective method of delivery of education and training that leverages the power of technology to create new educational opportunities, especially for working adults who cannot afford to stop their lives and to enroll in traditional colleges and universities. CCAW supports the bills provision to remove the outmoded restrictions in the HEA and opening up the student financial assistance programs, with appropriate safeguards, to those who enroll in quality online educational programs. The U.S. Chamber and members of CCAW strongly support this provision. Removing this restriction will provide working adults with more flexible and convenient options, making the pursuit of necessary education and training more plausible.

Second, the Chairman's bill proposes to repeal the "90–10" rule.

The HEA requires for-profit enterprises, like the institutions operated by the members of the Coalition, and them alone, to obtain at least 10% of their revenues from sources other than the student financial assistance programs. Non-profit and public institutions, even though they are advantaged through favorable tax treatment and public subsidies, are free to secure all their revenues from HEA programs. This 90–10 Rule had the ostensible purpose of curbing abuses and providing an indication of educational quality. Yet, however well intentioned, the rule has created perverse and counterproductive incentives that conflict with the HEA's aims. Experience under the rule now clearly shows that it measures not institutional integrity and quality, but the socio-economic status of students. Simply put, the more needy an institution's students, the more they will qualify for Pell Grants and other forms of financial aid. The more aid they receive, however, the more the institution is at peril of violating the 90–10 Rule. The consequence of violating the rule is draconian: the institution and its students cease to be eligible for the critical financial aid programs. Thus, the rule incentivizes institutions either not to serve the most needy students or to raise their tuition—results that are contrary to the purposes of access and affordability in the HEA. It is time to correct this inequity that penalizes those most in need of the relevant and timely education and training provided by proprietary postsecondary schools, and CCAW offers its enthusiastic support for this overdue modification.

Third, H.R. 4283 increases loan limits and allows year-round eligibility for Pell Grants.

Limits on the amount of loans that students may take out to finance their education and training have not been increased in over ten years. Furthermore, the HEA currently specifies loan limits for first and second-year students that are significantly lower than the limits for third and fourth-year students. First-year students are especially affected, with a limit that is less than half that of third and fourth-year students. Yet tuition is the same for all these students, and students in the early stages of education and training need more and not less help to ensure that they will succeed. Similarly, non-traditional students, who are now the majority (73%), need access to education and training on a year-round basis, not on the September–May schedule of the traditional academy. Pell Grants should be available to these students throughout the year. This modification will greatly enhance educational opportunities for working adults and CCAW is pleased this important change has been included in the proposed bill.

Fourth, the introduced bill modifies the definitions to treat for-profit institutions and their students more equitably than under current law.

The HEA currently has multiple definitions of institutions of higher education and distinguishes for-profit from non-profit and public institutions. These multiple definitions are a source of confusion and fail to recognize the maturation of for-profit institutions and the contributions they make to the education and training of students. These distinctions and other unfounded discriminatory practices also impede the ability of students to transfer the credits they earned at for-profit institutions to other institutions. The ability to transfer credits is more than a matter of equity. By requiring students to retake courses, the cost of education is driven up. And, the ability of the postsecondary educational system to efficiently respond to workforce needs is constrained. For-profit institutions should be recognized in the HEA as full

and equal participants in its programs, and anticompetitive rules and practices should not be allowed to substitute for an examination of what students have actually learned and achieved. CCAW is supportive of this modification. The time has come to abolish this statutory distinction, eliminating any perceived inferiority inferred by this outdated distinction and treating proprietary postsecondary schools and their students equitably.

Again, Mr. Chairman, I appreciate the opportunity to offer my thoughts and comments on this important issue. On behalf of the U.S. Chamber's Coalition for a Competitive American Workforce, I thank you for holding this hearing and for continuing to shine a light on our current workforce challenges and the consequences of these outdated provisions of the HEA.

Statement of David Rhodes, President, School of Visual Arts, Commissioner, Middle States Commission on Higher Education, and Vice Chair, Regents Advisory Council on Institutional Accreditation, on behalf of the Association of Proprietary Colleges

Mr. Chairman, I would like to thank you for this opportunity to submit written testimony with respect to the Reauthorization of the Higher Education Act.

My name is David Rhodes. I am President of the School of Visual Arts (SVA), a specialized master's level institution of the State of New York. I am also a Commissioner on the Middle States Commission on Higher Education and Vice Chair of the Regents Advisory Council on Institutional Accreditation. Both Middle States and the Regents are recognized by the Department of Education as institutional accreditors of institutions of higher education for Title IV purposes.

Today, I am representing the Association of Proprietary Colleges, a group of some 30 degree granting institutions in the State of New York recognized by the State as institutions of higher education.

What we seek today is the same recognition from the Federal Government that we already receive from our own State Government. In fact, what we seek today is simply recognition of reality—the reality of the changes in higher education in the last 30 years and the reality that an institution's corporate structure does not determine its status as an institution of higher education. Rather, it is the institution's programs, and their outcomes, which determine whether an institution is recognized as a member of the higher education community. It should be patently obvious to all that institutions which grant degrees at the Associate, Bachelor's, Master's or Doctoral level and are accredited by those accrediting bodies, such as the Middle States Association and the New York State Board of Regents which are recognized by the Department of Education as accreditors of institutions of higher education, should be recognized as institutions of higher education by Congress.

What we are asking the Federal Government to do is follow the example set by New York over thirty years ago. By way of history, in 1971 the Commissioner of Education, Ewald Nyquist, convinced the Regents that what mattered was not corporate structure, but student outcomes. If the outcomes were the same, all institutions should have the same responsibilities and the same powers. This understanding was incorporated into the Commissioner's Regulations. Soon after the State Department of Education began a series of visits to those schools which wanted to become degree granting. In all about 20 qualified based upon the standards contained in Part 52 of the Commissioner's Regulations and were able to begin issuing degrees. (Part 52 defines colleges and what is required of them in New York State.) The powers under Part 52 are also broad enough that proprietary colleges are allowed to issue honorary degrees, something heretofore reserved for colleges chartered by the Regents. At the moment there are two proprietary colleges which issue doctoral degrees.

The first immediate impact of being degree granting was the inclusion of all of the degree institutions in the New York State Tuition Assistance Program (TAP). On a personal note, I remember receiving the phone call telling us we were in TAP. We had not applied, but because we were degree granting, we were automatically included. Over the years a two-tiered system of payments has developed. Non-degree granting institutions have one set of payments (lower) and all other institutions, public, independent and proprietary, have another more generous payment table. The important thing is we are treated identically with all other degree granting institutions.

Over the years the State has developed a number of initiatives to help students graduate from high school and go to college. One of these initiatives was modeled on Eugene Lang's famous offer to a class in the elementary school from which he graduated. The Cuomo administration placed the idea into law and called it the Lib-

erty Partnership Program. All degree granting institutions were eligible to apply. SVA has always run one of the these programs and in fact ours is one of two in the State which mentors students from junior high school through to college admissions.

Finally, higher education in New York is divided into four sectors: CUNY (City University of New York), SUNY (Sate University of New York), CICU (Council of Independent Colleges and Invitees) and APC (Association of Proprietary Colleges). Each sector has representatives on the Commissioner's advisory task force and on the Advisory Board of the Higher Education Services Corporation which is New York State's Loan guarantor and administers the TAP program. As a sector we are also required, as are the other sectors, to prepare a sector wide master plan. In short, because New York State sees all degree granting institutions as institutions of higher education, Proprietary Colleges are included in all of the State's Higher Education activities.

We understand that the notion of single definition is controversial for some because of the eligibility for titles other than Title IV. There is a notion sometimes expressed that for-profit institutions are somehow less worthy of governmental support than public or not-for-profit institutions. This is a deeply ingrained prejudice, but one that I hope you would agree, upon reflection, is wrong. This prejudice would disappear if you were to think of these funds as contracts and not grants. The Federal Government contracts with for-profit institutions for all sorts of goods and services, the largest area, of course, being military procurement, almost all of which is done with for-profit entities. Various departments of government contract with universities, public, private and proprietary, to provide services for a fixed number of students, usually at a fixed price. The various titles are really no different. The institutions applying for and receiving these contracts (grants) are obligated to spend and invest these monies only in ways that will benefit students. To use the monies in any other way would be to violate the terms of the contract. Not all money is fungible.

By way of example, the current definition of Institution of Higher Education precludes proprietary institutions of higher education from participating in the contracting (granting) process of the Foundation for the Improvement of Post Secondary Education (FIPSE). Because FIPSE contracts (grants) specify how the money must be used and that it must supplement, not supplant, existing funds, no one has ever suggested that these monies were fungible. The same would be true with funds from all of the other titles. Like FIPSE, the other titles are competitive and the uses of funds clearly specified before they are released.

I would hope that this is sufficient to persuade you that proprietary institutions of higher education, which are seeking appropriate recognition from Congress, should not be accused of trying to abuse the public purse.

Thank you again for this opportunity.