Statement of

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Regarding

Gatekeeping in the Student Financial Assistance Programs

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Mr. Chairman and Members of the Subcommittee:

We welcome this opportunity to discuss the gatekeeping process for schools that participate in the federal student financial assistance (SFA) programs under Title IV of the Higher Education Act (HEA). The issue of gatekeeping -- that is, the process for screening institutions to participate in the SFA programs -- has been one of great concern to the Office of Inspector General (OIG) for many years. We firmly believe that it is vital to the efficiency of the SFA programs to have strong front-end controls like effective gatekeeping, rather than to rely on back-end, institutional monitoring and enforcement mechanisms. In the Department's testimony today, these two efforts are described as a single process. While they both perform important functions, the gatekeeping process exists to prevent marginal schools from ever participating or continuing to participate in the SFA programs.

The OIG has focused its work on non-degree-granting, vocational trade schools, because they have posed the greatest risk to the SFA programs in terms of fraud, waste and abuse. Therefore, my remarks will be directed to gatekeeping for those schools. Furthermore, based upon OIG's years of experience auditing and investigating the SFA programs, we believe that Congress should adopt a separate statutory and regulatory scheme for such schools, because they pose different challenges from the traditional academic schools for the administration of SFA programs. Indeed, the HEA already recognizes a distinction between degree-granting, higher education institutions and non-degree granting, vocational trade schools; only the latter are required to prepare students for "gainful employment in a recognized occupation."

I will urge in this testimony that reform of the gatekeeping process for the SFA programs be guided by this principle: WHAT YOU MEASURE, YOU GET. It is vitally important that we measure the right things in order to ensure that increasingly scarce taxpayer money is financing only quality training. Unfortunately, the way the SFA programs currently are designed, there are virtually no enforceable, quantitative measures that assure the quality of vocational trade schools that may participate in the programs. The result is that students and taxpayers are not always getting their money's worth for the $8.8 billion spent annually on postsecondary vocational training.

Because the traditional gatekeeping mechanisms for the SFA programs have not assured the quality of the participating vocational trade schools, I will be advocating in this testimony that, with respect to the non-degree-granting, vocational trade school sector, Congress legislate consistent, measurable, objective standards which schools would have to meet in order to be eligible to participate in the SFA programs.

HISTORY OF PROMISED IMPROVEMENTS IN THE GATEKEEPING PROCESS

There has been a great deal of congressional testimony on the subject of gatekeeping, particularly leading up to the 1992 HEA Amendments. In 1990, then-Secretary of Education Lauro Cavazos told the Permanent Subcommittee on Investigation, Senate Committee on Governmental Affairs:

> "We believe that focusing more on performance, strengthening standards for State Licensure, and improving the accreditation, eligibility and certification process will greatly improve quality amongst our postsecondary institutions. This has been and will continue to be a major emphasis of the Department's activity."

In October 1993, Assistant Secretary for the Office of Postsecondary Education, Dr. David Longanecker, promised the same Senate Subcommittee major improvement in the gatekeeping process by using authorities in the 1992 HEA Amendments to beef up the accreditation and certification processes, particularly with regard to the problem school sector -- nonbaccalaureate vocational institutions.

In July 1995, Assistant Secretary Longanecker again testified before the same Senate Subcommittee and promised a "new approach for oversight reform," a centerpiece of which was a targeting by the Department of resources in the gatekeeping area and elsewhere on "for-profit institutions providing short-term training."

Have the promised improvements materialized? In general, I can report that there has been improvement in those areas where Congress has legislated clear, bright-line standards or requirements for the Department to implement without much discretion, for example, the requirement for audited financial statements from participating schools. However, where the law has deferred to outside entities, such as accrediting agencies, to set and enforce standards, much more improvement is needed.

ACCREDITING AGENCIES -- RELUCTANT TO SET AND ENFORCE MEANINGFUL PERFORMANCE STANDARDS

Accrediting agencies are one-third of the tripartite gatekeeping process, along with the Department and the states. The accreditation process is conducted by private accrediting agencies, which under the HEA are to be determined by the Secretary to be "reliable authorit[ies] as to the quality of education or training offered" by institutions that participate in the SFA programs. Thus, under the current statutory scheme, accreditation is supposed to ensure the quality of training so that students and taxpayers get their money's worth from the training purchased.

History of Concern Regarding Accreditation Process

In testimony before congressional committees going back to 1990, OIG has repeatedly expressed its concern that the accreditation process does not reliably ensure institutional educational quality for vocational trade schools.

The Senate Permanent Subcommittee on Investigations, which had held extensive hearings on weaknesses in the SFA programs, issued its report on Abuses in Federal Student Aid Programs in May 1991. The report recommended that accrediting agencies be eliminated as a part of the gatekeeping process unless, under the leadership of the Department, the agencies dramatically improved their ability to screen out substandard schools. The report further recommended that the Department “should be required to develop minimum uniform quality assurance standards, with which all recognized accrediting bodies that accredit proprietary schools must comply. The Department should be responsible not only for formulating those standards, but also for developing and carrying out a meaningful review and verification process designed to enforce compliance with those standards. If the Secretary determines that an accrediting body does not or cannot meet these requirements, recognition should be terminated.”

1992 HEA Amendments

In the 1992 HEA Amendments, Congress sought to address the need for specific accreditation and institutional performance standards. Section 496 directed the Department to establish standards for recognizing accrediting agencies as reliable authorities as to the quality of education or training offered. The 1992 HEA Amendments also required the accrediting agencies to have institutional review standards in twelve areas. While many of these areas were previously included in the law, the required standards for student outcomes were a new addition. In fact, the law stated that "such standards shall require that" accrediting agencies assess institutional "success with respect to student achievement in relation to its mission, including, as appropriate, consideration of course completion, State licensing examination, and job placement rates."

We believe that by requiring the Department to "set standards" for evaluating accrediting agencies in specified areas, Congress was directing the Department to put meat on the bare-bones statutory language in order to ensure that the agencies had meaningful, quantifiable and enforceable standards for their member schools.

Department Action Since the 1992 HEA Amendments

It appeared that the Department was on the same track when Assistant Secretary Longanecker told the Senate Subcommittee on Investigations in 1993, in reference to the proposed regulations:

> "The Department will soon publish proposed regulations for recognizing accrediting agencies . . . which will make it clear that the accrediting agencies are accountable for the schools they accredit . . . [A]ccrediting agencies will be required to have meaningful standards for assessing an institution's fiscal and administrative capabilities, recruiting and admissions practices, measures of program length and student achievement, and program completion, job placement, and default rates. . . . These regulations would also require accrediting agencies to take followup action when a school fails to meet those standards."

In our opinion, the Department's final accrediting agency regulations did not fulfill this promise. The final regulations simply restated the statutory language of the 1992 HEA Amendments without giving the accrediting agencies additional direction for setting meaningful standards or requiring that those standards be enforced against member schools that do not meet them. The stated rationale was that the Department must regulate "closely to the law" to avoid "regulation-driven management." In addition to the Department's efforts to minimize regulation, the accrediting agencies expressed an unwillingness to develop and enforce meaningful, objective standards because of their belief that it would inappropriately make them federal regulators. This demonstrates why we believe Congress must legislate measurable and mandatory

performance standards and not rely on the Department or the accrediting agencies to do so.

We believe that the Department's regulations are not what the 1992 HEA Amendments contemplated; nor will they enable the Department to attain clear, measurable and binding performance standards to help meet the requirements of the Government Performance and Results Act of 1993 (GPRA). The GPRA mandates federal program accountability by requiring federal agencies to establish performance goals that are objective, quantifiable and measurable by fiscal year 1999. The Department currently must rely on accrediting agencies to establish and enforce such performance goals. However, without assessing the institutional performance data collected by the agencies from member schools, the Department's ability to comply with the GPRA may be significantly jeopardized.

Post-1992 HEA Amendments OIG Audit Work

To assess whether the accrediting agencies were in fact developing performance standards for student achievement, as contemplated by the law and the Department's regulations, the OIG in 1994 conducted on-site reviews of five agencies that accredit institutions providing vocational training programs which receive SFA funds. Our May 1995 audit report concluded that the five accrediting agencies generally were not using performance measures to assess and improve the quality of

education offered by member schools. Since our report, on-going, follow-up work reflects that some accrediting agencies have adopted or are now developing performance standards. However, the accrediting agencies expressed their reluctance to do so and said that they want and need more direction in the law itself as to what the appropriate standards for schools should be for purposes of participation in the SFA programs.

The accrediting agencies we reviewed treated the standards only as "goals" that the schools should try to meet rather than as enforceable standards that serve as a basis for withdrawing accreditation of substandard schools. For example, the National Accrediting Commission of Cosmetology Arts and Sciences (NACCAS) offered what it called "outcome guidelines" as fulfillment of the requirement for performance standards during the re-recognition process. To its credit, the Department staff criticized NACCAS for not having enforceable standards and directed NACCAS to call its guidelines "standards" and enforce them. While this is encouraging, the Department's regulations give accrediting agencies considerable leeway in enforcing their standards. Without enforceable standards, schools that fall short of their own accrediting agency standards -- even in such basic areas as graduation and job placement -- may continue to be accredited and continue to participate in the SFA programs. Since what you measure you get, without measurement and enforcement of even these basic standards for student achievement, we cannot assure that vocational trade schools in

the SFA program will consistently graduate and place the bulk of their students in jobs for which they were trained.

For example, our 1993 Management Improvement Report entitled “Title IV Funding for Vocational Training Should Consider Labor Market Needs and Performance Standards” reported that in one instance, a cosmetology school in Louisiana received over $2.8 million in SFA program funds for the 673 students enrolled over a period of approximately 3.5 years. Of the 673 students, only 19 students actually received state cosmetology licenses, at a cost to the taxpayers of almost $148,000 per license. While we do not mean to suggest that this is the norm, our investigations and other studies have revealed similar or even more egregious examples. I submit that had there been performance standards for vocational trade schools that included licensing exam pass rates and job placement, this shocking waste of federal funds may not have occurred.

In our 1995 audit report on accrediting agency performance standards, we recommended that the Department evaluate accrediting agency standards and procedures for measuring the quality of member schools and the success of their programs, particularly with respect to job placement. We also recommended that the Department require the agencies to verify the accuracy of performance outcomes reported by schools and hold schools accountable for unsuccessful training programs. We recommended further that the Department develop a process to collect and compile

reported performance data from accrediting agencies. The data could not only be used to monitor the success of accrediting agencies on an ongoing basis, but it is essential in order for the Department to assess program success in accordance with the GPRA.

The Department's program office did not completely agree with our audit report, and we have elevated the matter within the Department to the Office of the Chief Financial Officer for resolution. The fundamental disagreement concerns the requirements of the 1992 HEA Amendments regarding performance standards for student achievement. We believe the performance standard for student achievement must be numerical and absolute to be both meaningful and enforceable. We also believe that accrediting agencies must enforce their standards so that substandard schools do not remain accredited. The Department has taken the position, on the other hand, that the performance standards do not have to be absolute or numerical; that the standards could be goals that schools should work to, but may never achieve; and that agencies could develop subjective standards to be applied on a case-by-case basis to assess schools that do not meet the standards within specified time frames.

The Department also did not agree with our recommendation that it develop a process to collect and compile performance data from accrediting agencies. The Department expressed concern that it did not have the resources to develop and operate a system to collect and compile the performance data. We continue to believe that it is not enough to simply require accrediting agencies to measure performance.

The Department needs to know how well its Title IV funded vocational training programs are doing so that it can better manage the programs and demonstrate compliance with the GPRA.

Legislative Standards Needed

There has been a statutory requirement for accreditation standards for student achievement since July 1992, and a regulatory requirement effective since July 1994. Yet, we are only now beginning to see a handful of accrediting agencies establish performance standards, and accrediting agencies are not using their standards to terminate the accreditation of poor quality schools. In light of this reluctance on the part of accrediting agencies to engage in objective, quantitative evaluation of student achievement at their member schools, and the Department's reluctance to require that the performance standards be absolute, we recommend that Congress incorporate performance standards directly into the law, at a minimum for non-degree-granting, vocational trade schools. Since what you measure you get, these legislative standards should measure what Congress believes students and taxpayers should get from vocational training being financed with federal dollars.

As previously stated, a vocational trade school is allowed to participate in the SFA programs only if it "provides an eligible program of training to prepare students for gainful employment in a recognized occupation." Therefore, I submit that the most important performance standard should be

the number of students who obtain jobs in the field for which they were trained. If students who are trained at a particular vocational school are getting jobs, then Congress and the taxpayers can be relatively certain that the quality of the training is good.

Congress has mandated job placement performance standards before. The 1992 HEA Amendments required that programs of less than 600 clock hours have a verified completion rate of at least 70 percent and a verified placement rate of at least 70 percent. Even this is a modest standard, requiring that only one of every two students enrolled get a job. We believe that Congress should seriously consider a similar provision as a gatekeeping mechanism for all non-degree-granting vocational programs that receive SFA funds.

It is important to recognize that not all measurable statutory requirements are meaningful in assuring institutional quality. For example, the current HEA measures course length, but this does not ensure quality training. In fact, our past reviews disclosed that, in some instances, courses were stretched in order to meet the statutory course length requirement for participation in the SFA programs. Furthermore, course length requirements may actually increase the cost of training unnecessarily.

Past experience has shown us that legislative mandates of bright-line, quantitative standards are the most effective means of bringing about real, systemic

reform, rather than relying on the administrative process. Because there is tremendous pressure for deregulation in administering federal programs, the Department has been, and may well be in the future, reluctant to promulgate regulations that go beyond what the authorizing statute minimally mandates, as was the case with the current accrediting agency regulations. Bright-line statutory standards are important because, with fewer resources to administer these complex financial programs, the Department cannot do so efficiently and effectively when there are exceptions and mitigating factors that must be considered on a case-by-case basis. For example, the student loan default rate significantly declined between 1990 and 1993 after Congress promulgated default reduction provisions that required the Department to terminate the Federal Family Educational Loan Program eligibility of institutions having cohort default rates over specific numerical thresholds.

CERTIFICATION/ELIGIBILITY -- LEGISLATIVE REFORMS LEAD TO IMPROVEMENT

An example of the successful use of clear, bright-line legislative mandates occurred in another area of the gatekeeping processes. In the HEA Amendments of 1992, Congress set forth specific criteria for the Department to use in its financial and administrative certification of institutions participating in SFA programs. As a result, we have noted significant improvements in the Department's certification process.

History of IG Concern Regarding Certification Process

Our office issued two audit reports in 1989 and 1991 which addressed the Department's financial and administrative certification processes. At that time, we reported that the Department's certification procedures did not prevent deficient institutions from participating in SFA programs and did not protect student and government interests in the event of school closure. Moreover, nominal surety arrangements were used for the purpose of providing a mechanism for allowing almost any school to be certified to participate in the Title IV programs. In addition, the Department's administrative certification process placed too much reliance on the integrity of institutions in the preparation of certification applications, because the Department did not validate the information. We further found that institutions were routinely certified and recertified despite indicators of administrative capability problems such as high withdrawal and default rates.

1992 HEA Amendments

In the HEA Amendments of 1992, Congress added significant financial responsibility requirements for participating schools. Most importantly, all schools were required to have an annual independent financial statement audit submitted to the Department. Schools also were required to meet more stringent financial criteria for them to be considered financially responsible by the Department. The Amendments further added a 50-percent surety requirement for any institution that failed to meet the new financial responsibility criteria.

Post-1992 HEA Amendments OIG Audit Work

To determine the impact of the 1992 HEA Amendments on the Department's certification process, we conducted a follow-up review last year to evaluate the deficiencies we had reported in our previous audit reports. We concluded that the Department had implemented many of the requirements contained in the 1992 Amendments, and improvements were evident in the recertification process. In particular, the Department's implementation of the annual financial statement audit requirement significantly improved the certification screening process. However, we have been unable to verify the Department's stated increase in certification rejections because the Department cannot provide our office with the specific names of the institutions that have been rejected.

Our 1995 review also revealed that there were certain key areas where corrective action had not been completed. The 1992 HEA Amendments contained an additional requirement that the Department recertify all schools participating in SFA programs by July 1997 and then repeat the recertification every four years thereafter. Due to the large number of recertifications required and the limited number of staff available to

conduct the reviews, it is our opinion that the Department will not be able to finish the recertification of participating institutions within the statutorily mandated time frame. If the recertification process is not completed as required, it could result in ineligible institutions receiving SFA funds. To complete the recertification process in a manner that will minimize the risk to the Department, we recommended that the recertification of institutions be prioritized by first reviewing institutions that present the highest risk and then restructuring the process to streamline the recertification of the remaining institutions. The Department generally agreed with this recommendation.

Our follow-up review further revealed that the Department continues to have problems in maintaining and tracking its files on institutions. We recommended that the Department reevaluate its staff resources to determine how best to accomplish the file custodian's responsibilities. We further recommended that the Department consider the feasibility of scanning all institutional documents into an electronic database.

OIG is currently conducting another review of the Department's recertification process. For the high-risk institutions, we are questioning some of the Department's individual recertification decisions because of deficiencies in the financial responsibility and/or administrative capability of the institutions. The matter is the subject of internal debate with the Department at the current time.

Overall, we believe that the Department is making progress in its certification process, primarily because Congress provided the Department with specific requirements in the 1992 HEA Amendments. One area we intend to address in the near term is the Department's application of the new provisional certification

process authorized by the 1992 HEA Amendments. Provisional certification permits a marginal school to remain eligible to participate in SFA programs under certain restrictions. We will be examining the Department's handling of schools on provisional certification upon the expiration of their provisional certification period.

Institutional Eligibility Determinations

We also have some concerns about the Department's ability to implement new school eligibility requirements that appeared in the 1992 HEA Amendments. In the past, a school generally met the Department's eligibility criteria if it was licensed and accredited. The 1992 HEA Amendments added additional eligibility criteria such as the 85/15 rule (for recertification) and the 50-percent restriction on the number of students admitted on the basis of ability-to-benefit rather than high school credentials. We strongly support these clear absolute standards, and we believe that the Department must assure its current eligibility review staff establish procedures to ensure that schools are adequately evaluated under the new eligibility requirements.

THE STATES -- LICENSURE STILL GENERALLY INEFFECTIVE AS A NATIONAL GATEKEEPING MECHANISM

State licensure is a third part of the triad of gatekeeping mechanisms provided for by the HEA. It has been generally recognized for some time that state licensure does not assure a consistent level of quality for institutions participating in the SFA programs, because of the wide variation among the states as to their licensure procedures. In the 1992 HEA Amendments, Congress contemplated a greater role for states by providing for new State Postsecondary Review Entities -- SPREs -- which would have been responsible for establishing acceptable measures for student achievement for schools participating in the SFA programs and for monitoring problem

schools in their states. However, funding for the SPREs was eliminated in 1995, and therefore the state role in gatekeeping remains ineffective.

One reason the SPREs were not funded is because of opposition from the higher education community as a whole. We believe that Congress should reexamine the SPRE concept as a gatekeeping and monitoring mechanism for non-degree-granting vocational trade schools only.

We also believe there are other ways that states could have a role in the gatekeeping process. The OIG examined workforce development initiatives underway in six state offices responsible for overseeing state-supported vocational training. We found some states had made significant progress in developing strategies for coordinating and measuring the effectiveness of their job training programs. A key component of the strategies is the targeting of training for high-demand jobs and the use of performance measures. Although these agencies were not part of the state role in the program triad, we think these are exactly the strategies that were envisioned in the GPRA.

In August 1995, we recommended in a report to the Department that it study the feasibility of conducting a pilot project in one or more of those states with advanced workforce development programs. The Department did not disagree, but took the position that it was premature to implement pilot projects.

DEPARTMENT'S CURRENT GATEKEEPING INITIATIVE

In congressional testimony in July 1995 regarding fraud and abuse in the federal student aid programs, Assistant Secretary Longanecker testified as to the ongoing improvements in the gatekeeping and oversight of schools, and unveiled a new approach to ensure the integrity of these programs. The new approach is to differentiate between schools based on the level of risk they pose to the integrity of the programs. Departmental resources would then be redirected from the monitoring of the low-risk schools to an intensified focus on the high-risk schools, which he defined generally as for-profit non-degree granting institutions.

Following the testimony, the Department convened a meeting of its senior officers in an effort to decide what needed to be done to accomplish this effort. We were encouraged by the open discussion of the problems and looked forward to continuing to assist the Department in this much needed and long overdue effort.

Subsequent to the initial meeting, the Department established a steering committee on oversight and monitoring to continue this effort. Although we are aware of Departmental efforts such as the IPOS Challenge, to improve its processes for dealing with the high-risk schools, we are concerned that the Department's plans to

provide regulatory relief for the low-risk schools have become the top priority of the steering committee, rather than the increased oversight of high-risk schools.

We believe implementation of the current proposal for deregulation will require the reallocation of limited resources. We are concerned that this reallocation will divert resources from dealing with the high-risk schools. While we are not opposed to deregulation for the low-risk schools, we believe the Department's top priority should be addressing the high-risk problem schools, those that have called into question the integrity of the student aid programs.

This concludes my remarks. I will be happy to answer any questions you may have.