

U.S. DEPARTMENT OF EDUCATION  
OFFICE OF POSTSECONDARY EDUCATION

**PUBLIC REGIONAL HEARING ON  
NEGOTIATED RULEMAKING**

Thursday, October 2, 2008

9:00 a.m. - 4:00 p.m.

Smothers Theater  
Pepperdine University  
Malibu, California

P R O C E E D I N G S

**MR. BERGERON:** --when they will interpret during the proceedings. Otherwise, they will be here until we hear that someone has that particular need. With that, I am going to go ahead and ask if Andy Benton could come and say a few words.

**MR. BENTON:** Just a word of welcome. We are delighted that Pepperdine was selected as a venue for one of these hearings, and we welcome you to Malibu. One of my predecessors, Norvel Young, would describe our campus by saying we have 830 acres in Malibu, smog-free, sun-kissed, ocean-washed, island-girded, and mountain-guarded. I was never so clever, but I always thought that Norvel had it just about right. If you'd like coffee while you're here today, you can go outside this building and around the corner to a building we call "The HAWC," the Howard A. White Center. They also have snacks. And then, when it comes time for lunch, you're very welcome to go to our cafeteria, which is--you have to go around the construction to the Tyler Campus Center, and our cafeteria is really quite good. We don't get very many complaints, which, on a college campus is pretty unusual not to have complaints about cafeteria food. We're delighted to be a part of the government process. We believe in that, and we're grateful that we do have a Higher Education Act to be discussing, and now to participate in the process of framing the regulations.

Welcome to our campus. I hope it's a productive day. Thank you.

**MR. BERGERON:** Thank you, Dr. Benton. want to thank you for making your campus available. We have thoroughly enjoyed our time having arrived here yesterday evening on the campus, and we look forward to spending more time with you and your staff. You know, we appreciate all the support we've gotten from everybody here. So, thank you.

With that, I will invite either Danny or Harold to say a few words, or we will get started.

**MR. MADZELAN:** Ditto. Again, welcome, everyone, and thanks for having us here. We look forward to hearing your suggestions, your comments, your concerns about this reauthorization legislation in the manner in which we in the Education Department in cooperation and

consultation with you folks in the field implement these new provisions through our regulatory process. Thank you.

**MR. JENKINS:** I would just add a little bit about the structure of what we're doing. Congress has enacted a statute which, in many respects breaks new ground, but in many other respects, it amends programs that have existed for a long time. And what we're doing here is to implement regulations to administer the statutes that Congress has enacted. So, in other words, we're kind of filling in the gaps that they left when they enacted the statute.

And the regulations--the negotiated rulemaking process relates only to certain programs in the statute. So, that's primarily what we're here to listen to your comments about. These include primarily the Title IV programs, and especially the student financial aid programs. That's about it.

**MR. BERGERON:** Our first person who is testifying is Joy Brittain.

If you could indicate, when you speak for the record, your name and the organization you are representing, that would be great. Thank you, Joy.

**MS. BRITTAIN:** Good morning, and welcome to the West Coast.

My name is Joy Brittain, and I direct an Upward Bound Math Science program, which is part of TRIO. I'm also representing as past President of the Western Association of Educational Opportunity Personnel, one of the ten regions part of the Department of Education that comes together through the national organization, the Council for Opportunity in Education, and I just have three small items.

The first one comes to Talent Search, one of the TRIO Programs. In the HEOA--and it includes several changes in the Talent Search. The legislation modifies and expands its purpose, including college completion, whether students pursued a rigorous program of study in high school, received their high school diploma on time, and it also now includes required services section, specifying that projects must provide students with high-quality academic tutoring services, proper guidance in secondary and postsecondary course completion, assistance in completing college entrance exams, and admission of financial aid applications. This is a dramatic change, a dramatic change, from Talent Search, from where it came from being pretty much a dissemination program. And in order to achieve these goals, it will need to increase its intensity, and also the services within this area.

And so, representing TRIO, we urge the Department of Education to reduce the number of participants from 600 to a lower number. In order for TRIO to really assume these responsibilities, having 600 students would be an impossibility. And this would allow Talent Search projects to provide more targeted services in a more consistent basis.

And although funding is more dealing with appropriations than what you are here to hear, we do encourage the Department to increase the cost per student in order that the Talent Search projects can meet its objectives. The second program that I like to talk about is the Student Support Services. It is our understanding that the Department of Education is considering a plan to delay the Student Support Services competition, and while under the Section 403(a)1(B), from the HEOA, the Department has given authority to provide a one-time limited extension to synchronize the awarding of grants, we ask that this extension be limited to one year. And the reason why we're asking this is that this will provide the time necessary to get the law and the regulations in sync so that we are all on the same page. It also allows sufficient time for the Student Support Services programs, both those seeking a renewal grant and those writing for the first time, to be prepared to submit an application consistent with the new laws and regulations. We believe that this would be a win-win situation for both the TRIO community and the Department of Education. And then, the last item has to do with the annual performance reports. For the first time, Congress defined prior experience by prescribing outcome criteria for those TRIO Programs--for all TRIO Programs. And in addition, just as in the case mentioned earlier regarding Talent Search, Congress included new required services provisions and amended previously existing permissible services within the TRIO Programs.

In order for these changes to occur in the current TRIO projects and to complete the APRs, which is a necessity for all TRIO Programs--in a timely manner--we strongly encourage the Department to update the materials as soon as available, and to disburse them--and disburse this information to all of the TRIO community as soon as possible. We want to adhere to what has been defined, and what will be considered renewable and considered amended through the negotiated rulemaking, and we want to make the best efforts to bring that information to the Department.

Thank you.

**MR. BERGERON:** Thank you, Joy.

We're going to hold off just a minute...see our transcriber is in the room, so let me just see how long it will take him to get set up. So, we're just going to--just hold just a minute. Thank you.

[Pause.]

**MR. BERGERON:** So, I've been told the recording--they were recording and it started before we got to this point, so that we can go ahead and continue, and he'll just get the tape in order for them to get the complete record. So, we'll go ahead and have Jeff Ross come and join us. Again, introduce yourself by saying what organization you're representing. Good morning.

**MR. ROSS:** Yes. My name is Jeff Ross, and I'm with Taft Community College in California, and I would like to thank you for the opportunity to comment on the Higher Education Opportunity Act, but most specifically, those sections that deal with individuals with intellectual disabilities.

I am the Director of Student Support Services at Taft College, and I'm also the founder of the Transition to Independent Living Program, which is a residential program for individuals with the developmental disabilities who learn vocational and life skills while living on our college dormitories and off-campus housing.

Our students access the entire campus socially, and are integrated in traditional classes with supports if they demonstrate a desire and meet entrance requirements that are established by the institution. The program was established in 1995, and we have currently 48 students enrolled, a three-year waiting list, and an additional 200 applications that are waiting to be processed. We have 162 graduates from the program with a Taft College Certificate of Completion, and 98 percent of these students live independently, and 95 percent of those individuals are competitively employed. I am also a cofounder of the California Consortium for Postsecondary Options for Individuals with Developmental Disabilities, which is quite a title--which is quite a title, but anyway, it's kind of descriptive. This consortium is composed of professionals from California community colleges, California state universities, University of California, K-12 transition programs, Department of Developmental Services, regional centers, Department of Rehabilitation, State Council on Developmental Disabilities, parents, and, most importantly, students with

intellectual disabilities. This organization disseminates information regarding postsecondary options, works in the policy arena, and provides technical assistance to existing postsecondary programs, and those institutions that are interested in starting new programs. My professional experience speaks to my passion for the establishment of postsecondary programs throughout the Nation, and I work very diligently in the halls of Congress to get this amendment passed, that deals with intellectual disabilities. My experience, which is 32 years in the field, leads me to comment on a few of the sections that actually made it through the bill. First of all, regarding definition of students with intellectual disabilities, this requires that students with intellectual disabilities to participate on not less than a half-time basis as determined by the institution, with such participation focusing on academic components.

Now, as these students are actually moving into a postsecondary arena, we really think that the Department really needs to give us some flexible guidelines, but some real, true guidelines, on what exactly is a half-time student. We think that--we need to know if this is--if this determination is done solely by the program. We want to know if the academic Senate has involvement in this determination. We want to know the implications on what happens with accreditation standards when it comes to determining half-time students--half-time status for these individuals, or is this just merely an administrative statement?

One of the other components just on the definitions, also, is that it requires--in regular enrollment in credit-bearing courses with non-disabled students offered by the institution, auditing or participating in courses with non-disabled students offered by the institution, of which the student does not receive regular academic credit, enrollment in noncredit-bearing, non-degree courses with non-disabled students, and participation in internship or work-based training in settings with non-disabled students. The original versions, the House version and the Senate version, were actually more inclusive than what the final language actually came out to be. We feel that we need to have multiple models--for universities and, in particular, in my instance, community colleges--so that these students can access a curriculum, the entire curriculum, and not only be regulated to mainly an academic course. We feel that the mission of community colleges, which is a vocational mission and, indeed, that also recognizes the

academic mission, can be better served if the student has greater access to the curriculum. The next aspect, too--and regarding that, too--is, one of the things that I think that we need to be aware of, too, is that many community college campuses throughout the United States are open access colleges, where you do not have to have a high school diploma to enter these programs. So, right now, we actually do-- these students are already on our campuses. They are actually in inclusive environments, and are not doing so well. They are coming to us unprepared and, as an institution, we are being taxed with our disabled student programs and services because we are trying to provide accommodations for some of these programs where these students actually are not able to benefit. So, we think that we need to design programs that actually will--like the program we have at Taft--that actually can provide a real certificate, and these students can come out and become productive members of society.

Well, the next aspect I would like to talk about is the National Technical Assistance Center, and--which is the coordinating center that is established by this legislation. I feel that the coordinating center is key to the establishment and implementation of new programs, and my experience with the California Consortium providing technical assistance to a number of postsecondary institutions brings me to this conclusion. We feel that the--or I feel that the competitive process needs to be extensive in that the community colleges, the state colleges and universities, as well as private colleges deserve equal consideration as candidates for this coordinating center, and that all geographic areas are represented. One could also argue for the creation of multiple centers throughout the country.

I thank you for your time and your ear, and if I can assist the Department in any manner with the implementation, I would be honored. I believe this legislation is key to the unlocking [of] the college door for this population and, with proper implementation, this underserved student body will prosper.

Thank you.

**MR. BERGERON:** Thank you.

Pat Hurley.

**DR. HURLEY:** Good morning.

I'm Dr. Patricia Hurley, Associate Dean for Financial Aid at Glendale Community College, and Vice President for Federal Relations

for the California Association of Student Financial Aid Administrators. CASFAA is the largest state financial aid association in the country, representing more than 1,700 financial aid administrators from over 500 California postsecondary institutions. We extend you a warm welcome, warmer than normal, and thank you for selecting our state as one of your sites.

The Higher Education Opportunity Act includes numerous new provisions requiring additional institutional reporting requirements, campus security reporting, institutional consumer information, and loan disclosure information. But as practicing aid administrators, our comments today are focused on some of the issues we will be facing in our own offices. Addressing the student eligibility issues on Part F for Title IV under parent information and loan eligibility, we feel that students whose parents--well, the law states that students whose parents who refuse to support them or complete a FAFSA form are now eligible for an unsubsidized student loan. It is our understanding that this section does not change the students' dependency status, but there is some confusion over this in the field, and we're requesting some clarification. If this doesn't rise to the level of regulation, then perhaps a "dear colleague" letter would help clear that up.

With professional judgment issues, the law also offers additional examples of circumstances where an aid administrator may use professional judgment to assist a student. The law preserves our ability to use our own judgment to make need analysis judgments when warranted by mitigating circumstances and prescribes that a professional judgment decision be exercised on a documented case-by-case basis. We're concerned that this specificity in the law may lead some aid officers to believe that their authority is limited to the circumstances that are described in the law. So, we are asking the Department to reconfirm the broad application of professional judgment allowed under the law, and the principal that financial aid officers are the sole authority on whether a student's circumstances merit a professional judgment decision.

The law also states that students who become ineligible due to prior drug convictions while receiving Title IV aid may become eligible for Title IV aid if they completed two unannounced drug tests. The Department agreed in prior negotiated rulemaking sessions that Title IV eligibility requirements concerning drug offenses should not be



determined by the institution, but left up to direct communication between the student and the Department. We request that this policy be continued, and that this new provision be incorporated into the current process. There were some sections on ACG Grant, and we support the reinstatement of the Department's authority to develop a set of courses that can serve as an alternative to the state's definition of rigorous high school curriculum, and believe that the current set of courses have worked well, and they provide us with a method of qualifying students in private high schools, where the curriculum may differ from the state-prescribed curriculum but be equally or more rigorous.

Under the TEACH Grant, we applaud the law's provision that allows the Department to define extenuating circumstances under which the recipient may be excused from teaching the full four years without penalty of the grant being converted to a loan. We request that the Department establish regulations that are broad enough to include a variety of reasonable circumstances, and a process by which the recipient may appeal a negative decision on the part of the Secretary.

California is one of the states that requires civil confinement--and this is a new provision under the law--for previously incarcerated sexual offenders. The law now prohibits institutions from awarding Pell Grants to these individuals; however, it is unclear how institutions will obtain this information, and it is likely in a state as large as California, that it could be difficult for institutions to acquire this information despite their best efforts. We request that the Department develop a way to report this status on the ICER, if possible. Under Part B, we have been working with our sister organization, the California Community College Financial Aid Association for clarification that lenders and guarantors can assist institutions with in-person loan entrance and exit counseling. This became confused during other recent legislation and the regulation process.

The law specifically exempts these activities in the definition of prohibited gifts, but in another section only specifies that guarantee agencies may assist institutions with exit counseling. It is our understanding that Congress intended to allow both lenders and guarantee agencies to assist colleges with loan entrance and exit counseling, but could only address the exit counseling issue, because entrance counseling is regulatory and not statutory.

There are many reasons why loan counseling delivered by the lender or the guarantee agency is very effective, not the least is the increasing complexity of the programs that make it difficult for aid officers to deliver the most updated and accurate information to students. We request that the Department specifically reaffirm this important role of lenders and guarantors in the upcoming regulations. We are also concerned about cohort default rates, and it is anticipated that the increase in the number of years over which the loan cohort default rate is calculated will increase the average cohort default rates for all institutions.

Institutions may appeal an adverse ruling due to a high default rate and if they have a low number of student borrowers. This is because the law already recognizes that the default rate is not a measure of institutional integrity in these cases. However, to get to that point, the institution must submit a detailed appeal to the Department after the default rates are published. This seems to be an unnecessary clerical burden for both the institution that has to prepare the appeal, and the unit in the Department of Education charged with reviewing it. In addition, although the institution is then exempted, the adverse publicity generated by the published default rate can have a negative effect on the institution's enrollment. So, we are supporting the proposal from the California Community Colleges Financial Aid Administrators Association to provide an automatic exemption, and not require the calculation of a default rate for these institutions. And finally, the law speaks to some length about simplifying the application process and creating an easy FAFSA, and there are a number of provisions relating to simplifying the FAFSA form, including cutting the number of questions by 50 percent.

And, considering the new criteria and eligibility items created in the law, we seriously question how that can be done and maintain the FAFSA's ability to do basic screening for students' Title IV eligibility. The Higher Education Opportunity Act also promotes creating an easier FAFSA. It is part of the simplifying the process. We believe that there are some students for which this approach is ideal, specifically, those eligible for and participating in programs like TANF, SSI, and other public service programs directed to documented low-income families or individuals. We are very concerned about the loopholes that a simplified form may create for other students and

families with more complicated financial situations. While we recognize all the inadequacies of the current system, we urge the Department to approach FAFSA revisions cautiously, and with sufficient testing to avoid creating more loopholes and unfairness into our already imperfect system. And we thank the Department for allowing us this opportunity to comment. Thank you.

**MR. BERGERON:** We've got a couple of follow-up questions, I think, and I'll start by making a comment, or a--that the Secretary, I think, yesterday released a plan for vastly simplifying the FAFSA, and so, I commend it to your review.

I think that the plan calls for using two financial data elements for awarding federal aid, and only two: the AGI and the exemptions claim to the tax return. So--and we have a further conversation at some point about how that might play out in practice for institutions, but I would commend it to your review, and we'll have some conversations, I'm sure, around that, after you've had a chance to review it. It was late last night. She was speaking at 6:00 East Coast time, so I don't know to the extent anybody's had time to really think about that.

My question, though, is related to confusion around unsubsidized loan eligibility. And could you speak a little bit more about what that--how that confusion is playing out. We've heard some concerns and I just want to make sure that, as we develop some preliminary guidance, that we respond to the concerns that you have.

**DR. HURLEY:** I think even though it's stated in the law, I think, some people are confused about whether this means you can--the student becomes independent, which they do not, but you're treating them like an independent student, because you're not requiring parents' information. So, how that happens becomes kind of confusing. And then, if there's confusion over whether they're dependent or independent, that follows through to whether then they qualify for an additional \$2,000 unsubsidized or \$6,000 unsubsidized on the additional loan amount.

So, I think it just needs some clarification, because we're used to thinking of situations like that as being dependency override situations. And in this case, it really is not.

**MR. BERGERON:** Right. And also, there is confusion or concerns about how you even get an application from a student in this circumstance, because, in general, we reject applications from--that

are received that don't provide--don't collect parents' financial information for dependent students, right? So it's--

**DR. HURLEY:** Well, I think there's a whole lot of clarification on this. At what point does this parents' refusal to supply the information become a reason to not include it at all? That kind of goes against our forever, longstanding philosophy that it's the parents' responsibility, and no matter what, they're--unless there are really mitigating, tenuous circumstances, parents are required to provide that information. So, I think it's--there will be a lot of confusion about this particular issue. Once families find out about it, the question is, are they--is it a real situation or is it a family that's taking advantage of this provision under the law. And I don't have a sample--I really don't have a suggestion for how to regulate that, I'm afraid, right now.

**MR. BERGERON:** That's okay. I just wanted to make sure that, as we address the issues, that we address whatever your concerns are. And if others have concerns about that, we'll ask them about that, too.

Danny, I think, maybe has a question.

**MR. MADZELAN:** Yeah, Pat, I had one question about your comment with respect to cohort default rate calculations. And somehow--providing for an automatic appeal.

Just let me--the--right now, you can--I think the word we use is "challenge"--the calculation. And that's--you know, do you have the right number in the numerator and the right number in the denominator, that kind of thing. But the appeal--what we talk about is in the context of a proposed sanction. And so, I know that the community colleges and others have proposed some kind of an annual--I don't know quite the right way to say this--reporting or indicator by the Department that if this particular year's default rate were to, you know, result in a proposed sanction, it really wouldn't because the school has few borrowers or something like that. So, I guess my question is--are--because an appeal of a sanction only occurs when the sanction is being proposed, either three years of high default rates or the one year over 40, are you suggesting that every year--that when we publish a cohort default rate, if it is high--you know, over 25 percent, that we automatically indicate that, yeah, this is high, but you know, it would not be one of the three years, for example, that would count towards a possible sanction.

Again, I'm--part of this I'm struggling with this is the way we've constructed our cohort default rates where you can challenge one thing and appeal something else. And--

**DR. HURLEY:** Right. Well, since that provision is in the law as almost an exemption, we would like to treat it as--I mean, my--this is my point of view--it should be treated as an exemption. It could easily be part of the FISAP. Schools could report their loan participation rates, and if they fall below that, then they don't even go into the calculation of the cohort default rate. Now, that would be my preference.

**MR. MADZELAN:** Okay. So, there would be, in your view, some--in some fashion, the Department would collect on an annual basis--either the FISAP or some other mechanism, kind of that--you know, the eligible student borrowing population, because I think that's the main piece in that appeal calculation.

**DR. HURLEY:** Right.

The reason for this is--I've been doing this a long time. And going back to when rates were high, because the formula was treated a little bit differently, there were colleges that had very low participation rates, like 1 percent of their students borrowed, but because they were over the 25 percent default rate, there were articles appearing in papers that the schools--that the community colleges were going out of business, that they were going to be closed by the state, and that impacted the institutions in a negative way even though none of that was true and their student loan borrowers were a very small percentage of their aid recipients. So, that's the type of thing we were trying to address.

**MR. MADZELAN:** Okay. Thank you.

**DR. HURLEY:** Thank you.

**MR. BERGERON:** Margie Carrington, please. Good morning.

**MS. CARRINGTON:** Good morning. I'm Margie Carrington. I'm the Director of Financial Aid Services at Canada College in Redwood City, and I'm also the Vice President of the California Community Colleges Student Financial Aid Administrators Association, CCCSFAAA, and I'm here to represent that group. Our association represents financial aid professionals at all 110 community colleges in the state, and we have more than 2.5 million students, and that comprises one of the largest segments in the world of education, and much of what I'm going to say

is a similar iteration of what Pat just spoke to from the community college perspective. We worked closely with CASFAA, the state's association, in developing--bringing forward issues that are important to our segment. So, with that, I'm going to speak again about the cohort default rate, and Pat, I think, addressed some of those questions.

For CSFAA, we strongly recommend that the Department implement a front-end low participation rate exemption from the cohort default rate calculation through modifications of data collection fields on the FISAP. For community colleges in particular, having the front-end exemption would reduce staff time from completing the appeal process on the back end, as well as Department time in reviewing and approving them. So, it's a labor issue and a resource issue in and of itself if it's going to be approved on the back end, anyway, because they meet this low participation rate threshold. It doesn't make sense to use our staff time for those kinds of things when they could be better used doing outreach, assisting students and doing all the different things our offices are charged with that really make financial aid a very important part of our institution. It's anticipated that the additional third year will increase our CDRs by up to 50 percent. And for schools who are--participation rates meet the appeal threshold, this creates an onerous burden.

Another issue that's very important to the community colleges--again, because of our open access nature--is the ability to benefit. The new provisions in HEOA permit schools to determine--that students meet ability to benefit after satisfactorily completing six credit hours of applicable units towards their degree or certificate offered by that school. We would like to offer our assistance to the Department in developing regulatory language since this provision is based on the outcomes of experimental sites at California community colleges.

Entrance counseling--and Pat mentioned that on behalf of CASFAA--we've actually received verbal confirmation from Congressman Miller's staff that the intent was to reinstate both loan entrance and exit counseling as allowable services that lenders and guarantee agencies may provide with schools so long as the school maintains control over those sessions.

We recommend a "dear colleague" letter to clarify that this is an allowable provision with an effective date so schools can reach out to

their educational partners for support of this important activity. And lastly, again, with the easy FAFSA and simplification, there are numerous provisions related to the simplification of the FAFSA in the legislation, including cutting the current number of questions by 50 percent. And as you previously indicated, the Secretary has now released some ideas of what that might be, the change in need. We also seriously question how this can be done while maintaining the integrity of the FAFSA's ability to screen students for basic Title IV eligibility.

For certain students whose income is solely based on regular earnings reported on W2s, and again for those eligible for--and participating in program such as TANF, SSI, and other need-based public service programs, the approach may be appropriate. But again, we're concerned about the loopholes that a simplified form will create for the self-employed and those in more complex financial situations and circumstances. While we recognize all the inadequacies of the current system, we urge the Department to approach FAFSA revisions cautiously and with sufficient testing to avoid creating more loopholes and unfairness in the system. And again, our segment will be happy to assist in any way in reviewing whatever those proposals are.

On behalf of CSFAA, I thank you for the opportunity to share our concerns, as well as offer our services as a resource to the Department through the negotiated and proposed rulemaking process. Thank you.

**MR. BERGERON:** I think we may have a question or two.

On the proposal to deal with cohort default rate--the sanction problem on the FISAP, the FISAP is only used by institutions that participate in the campus-based programs. There are some community colleges that don't. So, we don't--that may not be the perfect mechanism. More significantly, the institutions may not relate to us for campus-based purposes in the same way they do for loans. You know, they may combine or split out for campus-based purposes. So, is there some alternative mechanism that you can envision that would help us not be faced with a system that works for a segment but not--all the institutions?

**MS. CARRINGTON:** At this moment, I can't think of something, but there--because the data on the FISAP that we're reporting--I actually didn't realize that all schools aren't reporting, even if it's zero, because they're reporting their enrollment and they're also reporting

their annual Pell and ACG and SMART, which is collected elsewhere as well. So, it's just matching data. know that there's been some other suggestions of using some annualized data, TICAS, I think, has written a letter to Secretary Spellings on a different proposal on determining the low participation rate based on aggregate data that's collected elsewhere. But their approach is not--we're looking for that front-end exemption because of the intensive work and negative press and other kinds of things that surround the potentially erroneous perception that the school is not doing well because of this high default rate.

Our school, for example, in 2000, had a high default rate, and we pulled out of the loan program; we've just reentered it. And that's one of the reasons why a lot of community colleges have decided not to offer loans as an option to their students, which is a disservice, because that might be the resource that the student really needs to be successful, but I know that is a concern in our segment. Because of open access, we can't control the admissions; we take everybody. We have a mission that's very diverse, and to be penalized because a small percentage of our students borrow and then end up defaulting because of their circumstances--it's counterproductive to what we do. So...

**MR. MADZELAN:** I think we're asking a couple of these questions because we have been thinking about this. I mean, you referenced the letter that the Secretary received. She's received a couple on this topic.

**MS. CARRINGTON:** Yeah.

**MR. MADZELAN:** So, we're--you know, we are interested in it as well, and so, this is the reason for some of our probing here, is just to help us think about this as well.

**MS. CARRINGTON:** I know our plan is to submit more detailed written comment by October 8, so I'll bring this back to our association's leadership and we'll discuss and see if we can actually come up with some alternative that would meet that same need. But it is important for us.

**MR. BERGERON:** Thank you.

**MS. CARRINGTON:** Thank you.

**MR. BERGERON:** Deb Banker-Garcia [sic].

**MS. BARKER-GARCIA:** Sorry for the bad handwriting.

**MR. BERGERON:** Actually, somebody had rewritten it for my list. So, it was actually easy to read, except the light.



**MS. BARKER-GARCIA:** Too many last names--the whole thing.

Good morning.

**MR. BERGERON:** Good morning.

**MS. BARKER-GARCIA:** My name is Deb Barker-Garcia, and I am the Director of Client Services for the Southern California Region at EDFUND.

EDFUND is a not-for-profit public benefit corporation, and one of the Nation's leading providers of student loan guarantee services under the Federal Family Educational Loan Program. EDFUND offers students a wide variety of financial aid and debt management information while supporting schools with advanced loan processing solutions and default prevention techniques. EDFUND was founded in 1997 by the State of California through the California Student Aid Commission, and in 2006-2007, processed more than \$9.3 billion in student loans. We manage a portfolio of outstanding loans valued at more than \$30 billion.

EDFUND is based in California, and we operate with regional representatives such as myself located throughout the Nation. I'm pleased to be with you here today to discuss just a few issues that are of particular importance to EDFUND and the schools, students, and families that we serve, and particularly important to schools here in California. I will keep my comments brief here today, but will let you know that we will be submitting additional written testimony covering these topics and a few additional issues.

Before I address the specific issues, on behalf of EDFUND, I would like to take this opportunity to applaud the U.S. Congress for reauthorizing the Higher Education Act through the passage of the Higher Education Opportunity Act. I would also like to applaud the Department for moving so quickly with the negotiated rulemaking process. We at EDFUND believe the law contains many new provisions that will continue to open the doors of opportunity for millions of American families, and we look forward to working with you in conjunction with our trade associations to implement the new laws, with the best interests of students and families that we serve at the forefront.

The first topic I'd like to discuss relates to entrance and exit counseling, activities performed by lender and guarantee agencies in conjunction with school personnel. Language included in Section 493(e) of the HEOA explicitly states that entrance and exit counseling activities are not considered a gift under the gift ban section.

The law also explicitly allows lenders and guarantors to perform exit counseling services in Sections 422(d) and 436(c) under the supervision of school personnel. Conversations with congressional staff have indicated that they believe the language adopted in the HEOA permits lenders and guarantors to provide both entrance and exit counseling, based on the legislative citations provided and in the express congressional intent, we request that the Department modify its regulatory position on guarantors and lenders, performing both entrance and exit counseling services on behalf of any institution that requests it.

EDFUND believes that allowing lenders and guarantors to assist both direct loans and FFEL schools with entrance and exit counseling activities is good for schools, good for the loan programs, and most importantly, good for the students. As financial aid officers are increasingly stretched for resources, lenders and guarantors are best equipped to provide the most comprehensive and accurate information to student borrowers on the specifics of their loan obligations, and what options and programs, federal, state, and institutional, exist to ensure a successful repayment experience. Additionally, some of the new repayment options and program benefits available to borrowers will require more than sound-bite type counseling for borrowers to fully understand the options available to them. The new income-based repayment option, for example, may require significant explanations from knowledgeable staff in order for borrowers to understand how to fully take advantage of the new program, a goal I believe we all share.

We suggest the Department align its regulations with HEOA and with congressional intent with regard to entrance and exit counseling performed for any FFEL or direct lending institution that may require the assistance. The second I'd like to address relates to a new provision in the law that requires schools with a cohort default rate of 30 percent or more to assemble a default prevention taskforce that will create a fully--excuse me--that will create a default prevention plan to be submitted to the Secretary. EDFUND, along with our guarantor colleagues, believes we can play a valuable role in this process, working directly with schools to develop strategies to lower their cohort default rates. Guarantors have consistently demonstrated that we play an important role in assisting students to successfully manage their student loan debt.

The growing importance of this role has been emphasized by increased requirements for guarantee agencies to provide financial literacy information and other resources to both schools and students, showing our agencies to be knowledgeable and effective trusted agents.

A school with a higher-than-desired default rate likely does not have the resources and experience needed to effectively assist its particular constituencies avoid default and delinquency. By including the guarantee agency and the taskforce designed to help the school develop and implement its default prevention plan, the school is able to take advantage of existing resources and expertise as well as ensuring that these default prevention plans become the effective tools as intended. Guarantors can help find the best tools and implement solutions based on what we know and learn in the field from others. Additionally, we can act as a third party to help facilitate the discussion, and we are seen as that trusted advisor, so we can guide the direction and keep them focused on their goals.

The financial aid office should not be the only Department on campus held accountable for defaults. Until the entire campus community understands their role, students will continue to fall through the cracks and some will default on their student loans. The financial aid office will need support from an outside neutral third party to get the discussion going and gain support of other campus officials. A guarantor can help with this process. Guarantors can also work with the Department globally to help develop some default management plan best practices that can be provided to both FFEL and direct lending schools nationwide.

The two topics I have addressed here today represent two opportunities for the Department to strengthen the students' loan program by utilizing the demonstrated experience of the guarantor community to better serve postsecondary institutions and the students we serve.

Thank you for the opportunity to speak with you today.

**MR. BERGERON:** I think I have one question, and that is--see, I've heard this testimony a couple of times already--or read it once and heard it once--and I didn't ask the question in Rhode Island and I probably should have.

**MS. BARKER-GARCIA:** You know, I heard there was going to be no questions.

**MR. BERGERON:** It's pretty easy. I hope it's pretty easy.  
And on your last point, the role of guarantee agencies in default management plans--

**MS. BARKER-GARCIA:** Default management plans.

**MR. BERGERON:** Are you suggesting that require schools to include GAs, or are you just saying--

**MS. BARKER-GARCIA:** I think we're suggesting that you allow them the opportunity to include them--that it's not--

**MR. BERGERON:** In other words that we not prohibit it.

**MS. BARKER-GARCIA:** Exactly, that you don't prohibit it.

**MR. BERGERON:** Okay. That was all I wanted to--

**MS. BARKER-GARCIA:** That was it?

**MR. BERGERON:** --clarify. Yeah, I said that I thought it was pretty easy. Thank you.

**MS. BARKER-GARCIA:** Thank you.

**MR. BERGERON:** Kent Wada. Good morning, Kent.

**MR. WADA:** Good morning. My name is Kent Wada. I am the Director of IT Strategic Policy at UCLA. Today, I'm representing the University of California, with an enrollment of over 220,000 students across 10 campuses. I'd like to comment on Section 493, Subsection a(29) of the HEOA, which establishes a new item within the program participation agreement requiring schools to certify that they've developed plans to effectively combat the unauthorized distribution of copyrighted material and, to the extent practicable, to offer alternatives to illegal downloading or peer-to-peer distribution of intellectual property. The University of California recognizes illegal peer-to-peer file sharing of copyrighted material is a global issue that is significantly impacting important economies and industries.

As creators of intellectual property ourselves, we are taking illegal file sharing very seriously and do not condone copyright infringement.

As you consider whether negotiated rulemaking is appropriate to implement this new program participation requirement, there are a couple of important points we would like to emphasize. First and fundamentally, we believe that this problem can only be effectively addressed through partnerships. Within the university, illegal file sharing is addressed foremost as a student life issue, wherein the goal is not only to change behavior, but also to help prepare our students

for life beyond our walls as ethical and informed citizens. Behind the scenes, however, it is also a joint effort between student affairs and information technology that makes the approach effective. Similarly, we see great value in higher education working collaboratively with the entertainment industry and other sectors to develop new technical, educational, delivery, and assessment methods that will favorably impact the level of and behavior of individuals involved in illegal file sharing.

These partnerships provide us with the insight, expertise, and experience to successfully consider and deploy new and effective ways to mitigate the problem. This leads me to the second point: It is essential that higher education continue to have wide latitude for experimentation in determining how best to address this problem, as is clearly expressed in the accompanying conference report under Section 488, rather than being prescribed a specific set of steps, technologies, or requirements.

This is especially true as we also believe that peer-to-peer technologies are powerful tools for inquiry and interaction, offering opportunity for significant scholarly contribution--collaboration, I'm sorry. In moving forward with the implementation of these provisions, we hope that the Department will carry out the wishes of the conferees in ensuring this flexibility and assuring that each institution retain the authority to determine its particular plans for compliance. The University of California is ready to assist the Department in any way helpful. Thank you.

**MR. BERGERON:** Somewhere along the line I had a question that has flown out of my brain.

**MR. WADA:** Don't look at me, I'm not peer-to-peer.

**MR. BERGERON:** I know that some institutions have attempted to develop alternatives. One of the--there are two provisions there, one that deals with policies and plans to deal with this issue, the other is to explore to the extent feasible alternatives. I was wondering if you could speak to any success or examples or concerns you have about those alternatives.

**MR. WADA:** Okay. So, with respect to the looking into legal alternatives for digital entertainment, I think--you know, when you consider when the language of this legislation was being put together, even as short as a year ago, the digital entertainment space was a very

different place than it is today. If you look around what's available on the Net right now--the example I use all the time is all 13 seasons of South Park are now available online, free, legally in streaming format. And there's just an incredible amount of premium content that's being put out there. And so, I guess the caution would be, simply given that the space is moving so quickly and the entertainment industry is evolving and experimenting and trying so many different things at this time to just move a little bit carefully in making any requirements. It's actually a very exciting time.

**MR. BERGERON:** Okay. Thank you, Kent.

**MR. WADA:** Thanks.

**MR. BERGERON:** This is why I normally write down my questions in the margin, so I remember what they are.

Steve Mital, please.

Good morning, Steve.

**MR. MITAL:** Good morning, and thanks for holding this regional hearing.

My name is Steve Mital, and I am the Sustainability Director at the University of Oregon.

I'm here today to ask the U.S. Department of Education to include full funding for the University Sustainability Grants Program in the Administration's 2010 budget request. As one of the Title VIII programs, the University Sustainability Grant Program was endorsed by over 220 colleges and universities, higher education associations, NGOs, and corporations. Hundreds of universities across the Nation, including the University of Oregon, have recently focused significant resources on "greening" campus operations, updating curriculum to reflect the principals of sustainability, and reaching out to educate and serve our communities. To manage these and other related activities, these institutions, hundreds of them across the country, have created sustainability offices, and I'm the Director of one of those.

Indeed, our national campus sustainability LISTSERV advertises newly-created sustainability positions at a rate of about three per week these days. So, it is--there are lots of opportunities for those interested in the field, and it is really incredible how fast universities are picking these things up. These offices carry out some of the following functions: We develop indicators of sustainability

performance and appropriate monitoring and reporting protocols for our institutions. We developed climate action plans to chart a course for significant reduction of greenhouse gas emissions on campuses. We identify opportunities to reduce the campus environmental footprint through smarter building design, increased reliance on renewable energy, recycling programs, alternative transportation initiatives, purchasing policies that take into consideration lifecycle costs, and support for local food production systems.

We also support a wide range of student-led initiatives to green campus operations. This gives students, of course, some on-the-ground real-life experience in putting their values and principles and things that they're learning in classrooms in action. And finally, we support education and outreach to the campus community and surrounding community as well. So, taken as a whole, institutions of higher education have created a very significant demand for wind energy, which has helped finance their construction around this country.

Higher education has also built a large percentage of all LEED certified buildings. LEED is the program under which--that certifies buildings for smart energy and environmental design. It is largely--widely recognized as a national standard. Higher education--excuse me, 17 million students are enrolled in institutions of higher education, and many of them have their first encounter with a recycling bin, a public bus, and a reusable coffee mug as a freshman on one of our campuses. They develop, therefore, good recycling habits on our campuses. As an example, the University of Oregon--our recycling rate--that is, if you take the percentage of all of the trash that we generate on our campus--50 percent of it gets recycled.

Students learn that the bus and the bike are viable forms of transportation. And again, at the University of Oregon, 69 percent of all students living off-campus--not the ones on-campus, but the ones living off-campus--use some form of alternative transportation to get to campus each day, and about 30 percent of our faculty do as well.

More than 500 presidents of colleges and universities have signed the President's Climate Commitment. This initiative obligates those institutions to achieve carbon neutrality by the year 2050. So, it's a very aggressive commitment that we've signed. The initiative is an example of large-scale, voluntary carbon emissions reduction programs.

Along with our sister institutions in the university--in the Oregon University system, and with support from our Governor and State Legislature, we have a goal to power our campuses with 100 percent renewable energy as part of our strategy to reduce our emissions in line with that Presidents Climate Commitment that I just mentioned. So, we are working very hard to transform our campuses into 21st century models of sustainability, and hundreds of other campuses across the Nation are embarking down similar paths. The authorization of the University Sustainability Grants Program at the Department of Education will provide the catalyst for schools and higher education associations to develop and implement more initiatives and best practices based on the principals of sustainability. One small example of a creative approach to sustainability, outreach, and service that this program could support is at the University of Oregon's award-winning what we call "Climate Masters Program," which is being now replicated elsewhere across the country.

So, folks at the University of Oregon did a "train the trainer" program and offered 30 hours of free training to anybody in the community--not the university--not the campus community, but the surrounding community in Eugene, training to--how they could implement ways of reducing carbon in their daily life and at a residential scale. Those trainers then have to dedicate an additional 30 hours in their neighborhoods. And the results of the first year program show that every person participating in that effort reduced his or her emissions by two tons over the course of a year. Like I said, this program is being replicated across the country now.

We shouldn't forget the significant potential for cost savings embedded in sustainability. Simple efficiency upgrades, conservation practices, smarter purchasing policies have been proven to save millions of dollars from operating budgets, and this in turn can have an impact on student tuition and fees. So, as we begin to connect the dots among our Nation's many challenges in energy, national security, sustainable economic development, environmental protection, and social justice, it is imperative that our schools incorporate this fundamental perspective in their teaching, their practice, and their service. So, in closing, higher education is embarking upon an ambitious and highly-visible transition to become models of sustainability, and I applaud Congress for recognizing the need to help, and I'd like to urge you to



fund the University Sustainability Program at \$30 million, which is a level sufficient to make a meaningful difference on hundreds of campuses and the communities we serve, and indeed sustain the momentum we have already built.

Thank you.

**MR. BERGERON:** I have a couple of comments--or a comment and a question. The Higher Education Opportunities Act authorizes 69 new programs.

**MR. MITAL:** Yeah, I've heard.

**MR. BERGERON:** The Congress in its action funded three of those programs through savings in the student aid area--student loan area--and funded three within the Bill: A post-baccalaureate program for Hispanics-serving institutions, a master's program at historically Black colleges, and a master's program at predominantly Black institutions. It seems to me that, you know, Congress could have chosen to fund this program with savings--with those savings, instead. So, I just--that's a caution about this that the--you know, this is competing against other priorities for existing programs and new programs. And so, a follow-up question, having made that comment or observation--that is, what's the compelling federal need--you described actions that institutions are already taking with their own resources. And so, could you speak to why this is a compelling federal issue that requires federal funding.

**MR. MITAL:** Sure. And that's a very good question.

Like I said, we have embarked down this path already, and lots of funding has been committed. The thing that's on the horizon that I don't believe universities and colleges around the country have really found the resources for is to implement their climate action plans that, like I said, more than 500 of our colleges and universities are currently developing. As one example, the University of Oregon has just a year left now to get its climate action plan submitted to the--to the Presidents Climate Commitment Group that oversees all of these. And after we turn in that plan and have it--we will then have a period of time under which to implement it.

That is something that, across the Nation--at universities and colleges across the Nation, there really has not been significant funding internally or externally identified to support that. So, the

potential to save those emissions is tremendous. The funding to carry it out is not really there yet.

**MR. BERGERON:** Thank you.

**MR. MITAL:** Thank you.

**MR. BERGERON:** Kate Harold.

Good morning, Kate.

**MS. HAROLD:** Good morning.

My name is Kate Harold, and I'm Director of West Coast Operations for the RIAA, which is the Recording Industry Association of America.

The RIAA's several hundred-member companies are responsible for creating, manufacturing, and/or distributing 90 percent of all sound recording sold in the United States. Music has never been as accessible to fans as it is right now, and our studies show that more music is being acquired than ever, but less and less of it is being paid for, and therein lies one of the great challenges: It's just way too easy to get for free without compensating the creators. U.S. copyright industries account for 6 percent of the Gross Domestic Product, and one of the very healthiest balances of trade of any American industry.

Copyright industries are not only leaders in creativity but in the economy as well. While there have been bright spots in sales of digital tracks over the past few years, even including digital track sales, the sale of recorded music has been down for the last seven of eight years, amounting to an aggregate fall from 1999 through 2007 of roughly 25 percent, and more than a \$3 billion decline in sales.

According to a recent report on music piracy by the Institute for Policy Innovation, this translates into 70,000 lost jobs and almost \$2.7 billion in wages for U.S. workers. These numbers give a clear understanding of why we are so concerned with the problem of illegal file trafficking and why the problem extends beyond our industry, affecting not only this state but the economy of the entire country. They also show why we are so pleased with the provisions outlined in the HEA. The fact is that illegal file trafficking remains a disproportionate problem on college campuses. According to market research firm, MPD, college students alone account for more than 1.3 billion illegal music downloads in 2006. College students surveyed by MPD reported that more than two-thirds of all the music they acquired was obtained illegally.

Some universities, including some in California, have offered legal music services to their students as an alternative to engaging in theft over their networks. We appreciate the HEA's recognition of these programs and the advantage provided to schools that choose to adopt them. We also appreciate the HEA's recognition of the importance of using blocking or filtering technologies. Certainly, the schools that have had the greatest success in stemming the massive infringement occurring on their networks have implemented effective technological measures to either block peer-to-peer entirely or filter to prevent illegal activity. The reports of savings to institutions due to the use of technological solutions are compelling. For example, the University of Florida saved \$1.5 million by deferring a network upgrade for two years.

Likewise, the University of Utah has reporting saving \$1.2 million in bandwidth cost and about \$70,000 in personnel costs. These technologies have proven to be affordable.

When schools such as Vanderbilt report spending more than \$500,000 on educating students and dealing with infringement on the network, the relatively small outlay in effective technology is an obvious and smart investment. We hope schools will acknowledge the HEA's inclusion of technology-based deterrents in their reporting requirement, and take advantage of these effective measures. Higher education institutions have a major part to play in addressing the problem of illegal file trafficking online. This activity has caused extensive damage not only to our industry in this state, but to the country as a whole, and we are very grateful to the attention brought to it by the HEA.

We thank the Department for holding these hearings and for your anticipated involvement. Thank you.

**MR. BERGERON:** Thank you. Thank you.

We're going to take a break, because we're to the point where we should be at 10:30. So, we're going to go ahead and take a break until - 10:30-10:40?

**MR. MADZELAN:** Let's say 10:30.

**MR. BERGERON:** Let's say 10:30. Okay. So, we'll take a break until 10:30.

Thank you.

**[Brief recess.]**

**MR. BERGERON:** We're going to go ahead and reconvene. I think we're going to go ahead and reconvene. Our next witness is Phyllis Jacobson. Good morning, Phyllis. And could you remind us where you're from and--for the record. Thank you.

**MS. JACOBSON:** Certainly. Good morning, gentlemen.

I'm Dr. Phyllis Jacobson. I'm the Administrator for Educator Examinations for the California Commission on Teacher Credentialing, which is California's state teacher licensing agency, and I am here representing the Commission today. The Commission is the oldest independent teacher standards and licensing board in the Nation, and is one of 20 such independent teacher licensing boards across the United States.

We would like to express our appreciation for holding a Title II public input session here in California. I would like to address three areas within the reauthorizing legislation: eligibility to apply for federal grants, accountability provisions for programs that prepare teachers, and candidate privacy issues relating to score reporting.

The first area concerns eligibility to apply for federal grants under the Act, including the partnership grants. Section 200 contains the definitions of eligible educational service agencies that can apply for discretionary funding under federal teacher quality and related grant initiatives. This list includes only three types of state educational agencies: the state educational agency, which is typically the state department of education, the state board of education, and the state agency for higher education. The list does not include the fourth type of state education agency operated by 20 states including California, which is the independent teacher licensing agency. We are typically independent from and not part of any of the three state educational agencies referenced in the current version of the definitions. Unless these definitions are modified, all of us 20 independent state educational service agencies that are teacher licensing boards will be systematically disenfranchised from being eligible to submit applications for grant funding. However, we are the very state educational service agencies responsible for the preparation and certification of teachers, and we also are the agencies that work with teacher preparation institutions to prepare the required Title II report. We should be eligible to apply for federal funding under the Act.

California respectfully requests that the definitions under Section 200 be expanded to include state teacher licensing boards or agencies as a fourth type of educational service agency, and that we be listed as eligible applicants to apply for federal funding under the Title II Teacher Quality Enhancement Initiatives and Related Federal Initiatives. The second area we would like to comment on concerns Section 205, accountability for programs that prepare teachers. The legislation now requires states to report average scaled scores for all students who take required teacher licensing assessments.

As guidance and regulations for crafting--are crafted for implementing this Section of the Act, California wishes to raise the following questions and concerns. Our first concern is the purpose and intended use of reporting scaled scores on teacher licensure assessments. State teacher licensing agencies, including the California Commission on Teacher Credentialing, establish a passing-score standard, or a cut score, for each standardized teacher licensure assessment. That score represents the point at which a candidate is deemed to be competent in the subject of the examination.

As long as a candidate meets the passing score standard established by the state, and is deemed to be competent in the subject of the examination, the individual candidate's actual scaled score, as well as candidate aggregated-scale scores are not relevant to a state credentialing purpose or to a licensing decision. If the state's cut score is reported to the Department of Education for each assessment required in the credentialing process, and the numbers of candidates who meet the cut scores are also reported, then we do not see what purpose would be served by reporting individual candidate and aggregate candidate scaled scores, in addition to the number and percent of candidates passing these assessments.

We suggest that the implementation regulations allow for reporting state-established, scaled, cut scores, and the number and percent candidates meeting that standard rather than requiring all programs to report individual candidate's scaled score data. Supporting our implementation recommendation is the fact that licensure assessments are criterion referenced and not norm referenced. Score comparisons across examinees, such as aggregate scaled scores required under the Act, are not appropriate for a criterion-referenced examination.

In the context of a criterion-referenced examination, a standard is established, and each candidate is assessed against that standard. The performance of other examinees on the same assessment is not relevant, as each individual examinee must independently meet the standard on his or her own, and the examinee's score is neither dependent on nor tied to the performance of any other examinee. In a norm-referenced assessment context, the performance of a given examinee is assessed in comparison to the performance of other examinees. But standardized tests for teacher licensure are not used in a norm-referenced manner, and aggregating the scores across examinees is inappropriate for this type of assessment. Using scores in this manner is not consistent with the standards for educational and psychological testing established by the American Educational Research Association.

We would also like to raise some concerns and issues about potential difficulties relating to the requirement for how the standardized assessment outcomes are to be reported. For example, enrolled candidates may take only some subtests of a given examination and not complete the entire examination within the Title II reporting period. Each of California's standardized licensure assessments has several subtests. Would programs be reported to require--would be required, excuse me, to report candidate's scores based on the individual subtests, or would scores by subtest, as well as the total across all subtests be required? Which score would be reported, the time the candidate initially tried the assessment or the final score? What about candidates who may not have completed all of the subtests of a required licensing examination, but who may have scores in only one or more parts at the time of the required Title II report?

Another potential difficulty is the fact that not all candidates indicate their institution when they register for these assessments, nor are they required to do so. Candidates may actually request that their scores not be provided to any institution until such time as they are ready to use these scores for licensure purposes. Since institutions may not receive complete reports about their students, what would happen to them if they reported incomplete results?

In addition, licensure assessments are not static entities, but are constantly changing, even during a given academic year. Not all candidates in a given teacher preparation program may have taken the same teacher licensure assessments. All candidates' scores would not be

reflective, therefore, of a single examination, but could represent several examinations. How would such varying and different examination data be reported and viewed by Title II, since each examination could apply to a different number of candidates, and not all candidates, and each examination might have its own different cut score? Another key issue that California is concerned about is the fact that many states, including us, are now using a variety of required teaching performance assessments. These are mandated assessments required of all candidates, but they do not provide scaled scores. They are rubric-based, and they may vary from institution to institution, and cut scores may vary from institution to institution. Even though each of these assessments must be state-approved, the fact that they vary so widely causes us to wonder how these would be treated within a Title II report, and whether they need to be reported, given that they do not meet the scaled-score requirement. Given this situation, we recommend that implementation regulations need to consider whether performance assessments such as these would be reported, and if so, how scores would be reported since there are no scaled scores, different institutions are using different models of the assessment, and the passing score standard can vary both within model and across models.

How would such widely variant data be useful to the Department, and what purpose would be served in reporting these types of performance data?

The final area on which we would like to comment is candidate privacy issues. The requirement to report individual candidate's scores may conflict with FERPA provisions, and may put individual teacher preparation programs, as well as the state, at risk of a lawsuit. Requiring teacher preparation institutions to report individual candidate's scaled scores when the candidates themselves do receive these scores, the programs do not receive these scores, and candidates are not even required to report these scores to their programs until they are ready to be used for credentialing purposes could potentially be a violation of candidate privacy rights. We believe that we should not be responsible for requiring candidates to provide private information about themselves for release to the federal government without the candidate's permission, and that to do so would potentially put institutions at risk of a lawsuit. In addition, programs that have a small number of candidates, such as more than ten but fewer than 50,

for example, would be reporting data that could allow for individual identification of candidates and their private information, which would also be a potential violation of candidate privacy. We request that the regulations clearly address these issues of candidate privacy, and how the inherent conflict between federal reporting requirements under the Act, and federal and state privacy rights for candidates can be resolved. This concludes our comments, and we thank you very much for this opportunity to provide input.

**MR. JENKINS:** I'll just make one comment.

The Department, of course, administers FERPA, and I could not imagine that the Department would have programmatic requirements which would bring an institution or any other entity into violation of FERPA.

**MR. BERGERON:** The only other comment I'd make is that the first issue you raised concerning the eligibility of state teacher licensing boards for grants is one where it wouldn't be--as Harold described it earlier--filling in the blanks where Congress hasn't written things into the law. It would be adding a new category which would be changing the statute, I think, if I heard you right, or were you suggesting that we, in interpreting one of the categories that are listed--interpret it to include state's teacher licensing boards?

**MS. HAROLD:** We would appreciate such interpretation. We understand that you may not be able to change the law, but we believe that the--there was no intent on the part of Congress to disenfranchise state teacher licensing boards, which are the very entities responsible for assuring initial teacher quality.

**MR. BERGERON:** Okay. Thank you. Ralph Wolff. Good morning, Ralph.

**MR. WOLFF:** Good morning. My name is Ralph Wolff, and I am the President and Executive Director of the Accrediting Commission for Senior Colleges of the Western Association of Schools and Colleges, WASC. We accredit 157 colleges and universities here in California, Hawaii, the Pacific Islands, serving well over 800,000 students.

I'm also representing our sister accrediting association, the Community College Commission, which accredits more than 140 two-year and community colleges, and they serve well over a million students.

We also participate in C-RAC, and you'll be hearing--if you've already heard from one, then you'll be hearing from others of my colleagues. So--and as you know, regional accrediting bodies are one of



many accreditors, and we accredit all the major public and private universities, over 3,000, that serve 17 million-plus students. We take our responsibility seriously, and both the Community College Commission and we have had to take actions in the past several years to terminate accreditation of institutions when problems we found were not corrected. We can be, and are, tough when needed, and as I'll discuss later, we want to make sure we have the ability to take appropriate action when needed, especially when breaches of integrity are found.

At the same time, we work with primary--with major research universities, Stanford, University of Southern California--Pepperdine, here, we accredit--and the entire University of California system, so we need to have flexibility to work with a wide range of institutions.

Obviously, as you know, we've changed our focus in accreditation, the focus on student learning, a great deal, and my own commission completely revamped our entire process to be learning-centered. We have worked well with the staff of the Department as we've gone through our own reviews and really have been found to meet all of the requirements. But I also want to say we really need to support the peer review character of accreditation in working through with regulations. In 2007, I also had the opportunity to serve on the negotiated rulemaking panel, which was really a real learning opportunity for me, and I wanted to offer a few observations as we go through the next neg-reg process, and then make a couple of comments about specific provisions in the bill.

If I may, I would like to say that, one, I'd encourage keeping the focus narrow. This is a very long bill with many provisions, and a number of the accreditation provisions in the law are important. And as you know, any new rules are going to have an impact, not only on us, but all 3,000 institutions, and therefore, they can add a great deal of cost and burden to our institutions. So, we'd encourage that the rulemaking process be focused on those areas that really need new regulations. Some provisions of the law are really quite clear, and in fact, we would just urge be restated in any regulatory process rather than add additional interpretation. Second point would be to keep the regulations straightforward, and make sure they're feasible to be implemented.

In the last rulemaking process, one of the big debates was whether or not we could even implement some of the proposed changes,

even if they were good ideas, given the wide range of our institutions and the limited data capacity in a number of cases. One of the new provisions in the law calls for authentication of distance learning students. I think it's an important provision, but all of us are trying to figure out what's the best way to address this, and what is the appropriate technology? And so, in this area, we'd encourage that there be flexibility in allowing the technology to catch up with the provisions here of how we would do that, and not to prescribe a particular approach.

Third point would be to have the right people at the table. We're not quite sure how you're going to incorporate the accreditation provisions. There are not a large number of them--and so, that they'd be grouped together in an appropriate context for rulemaking--where people who are knowledgeable about accreditation issues can be involved and, if possible, I'd certainly have--be--welcome the privilege to participate again. But I want to ask that the right people be at the table--that there be fair and representative participation of regional, national, and specialized accreditors proportionate to our representation of students and institutions. We can speak best to what we actually do, and what the impact will be, and we'd ask the same--that institutional representatives be, in fact, truly representative of the major institutional types of higher education, proportionate to their enrollment of students.

Fourth is to create regulations that permit multiple approaches rather than one-size fits all. We debated a lot about that in last neg-reg process. As you know, one of the great strengths of American higher education and of accreditation is our diversity. And on any given issue, there are so many different ways to approach or address a provision in the law--we'd like to request flexibility as regulations are drafted. We certainly want to address the spirit of the law, and even the letter, but to make sure there is flexibility to do so. With that, I want to just talk about a few specific principals.

There are changes in the law dealing with accreditation on due process, and all of the regional accrediting bodies have gone through the current regulatory process and we have extensive due process procedures that all of us have been accepted through departmental review. They do work well, and the new law adds a provision in an appeal process to allow for new financial information to be reviewed--

to be received and reviewed, even after a final decision, and even during an appeal. And the appeal looks backward at the evidence that was available at the decision; this allows for new information.

The law itself is quite clear, and all of us are actually working together to develop a process that will respond. One of our commissions already does permit this, the New England Commission. We'd urge that any new regulations regarding due process be straightforward, allow for different approaches, and not go beyond what is already stated, we think, quite clearly in the law. For example, the law mentions that legal counsel is to be permitted in appeals proceedings. We already do that, but how they're to be involved or engaged should be left to each accrediting agency rather than defining what the standards would be.

We also want to say that there must be a balance for our ability to act quickly. We are currently dealing with several institutions where we think there may be major issues, and we need to be able to act quickly while respecting the right of institutions to appeal.

Transfer of credit to secondary--which, as you know, is the first time it's actually identified in the law. So, a contentious issue in the last negotiated rulemaking--here, again, we'd say that the provisions in the law are quite clear. Institutions must have and publish their policies on transfer of credit and their criteria that they will apply in making decisions on transfer.

Given the directness of the language and the plain meaning of it, we would urge that no further interpretation is needed beyond restating the law, and we will look at the publication of this in our accrediting reviews. With distance education, I've already mentioned the authentication provision. I just wanted to state the conferee provision did state, "As new identification systems are developed and become more sophisticated, less expensive, and more mainstream, the conferees anticipate that accrediting agencies and associations and institutions will consider their use in the future." And again, I just would like to urge that we all work together to develop an appropriate response, but not to settle on the precise way in which it will be adopted, because we've got to figure this one out. And already, we're starting to talk with our institutions, how they're doing that. Finally, as monitoring institutional growth, there is new language in the law requiring accrediting agencies to "monitor the growth of programs that are experiencing significant enrollment growth." We already have that

practice. In fact, it was a part of our last staff review. We had to develop protocols for that. But the idea--the question of what is significant, how do you define enrollment, is very dependent on the institution's context. In a small institution, it could be one thing, in a very large, comprehensive institution--could mean something quite different. So, again, we would urge a flexible response that allows us to work with each institutional size and context.

Finally, and to conclude, I just want to reaffirm my personal commitment on behalf of WASC, both Commissions of WASC, and speaking for all the regional accrediting executives--that we would be glad to work with you. We've worked well with the Department in the past and feel we can get all these issues resolved and hopefully with a successful neg-reg process next time.

Thank you very much.

**MR. BERGERON:** Thank you, Ralph. I've got a couple of things that come to mind. First of all, really? You really want to do it again?

**MR. WOLFF:** Not really, but we have to.

**MR. BERGERON:** No, I appreciate your role the last time and enjoyed working with you in that process, even though we didn't come to consensus on that regulatory package.

As you've been thinking about and looking at the issues around distance learning and authentication, you know, I hear you say that we should have flexibility and I think that's likely--necessary, given the development. Is there--are there some strategies that you are hearing from institutions that have particular strength in your view, or is it just way too early to know what might be going on that you think is workable? And you can just say you think it's too early. I don't want to...

**MR. WOLFF:** Well, I do think it's too early, but let me just--let's put it this way: think we all need to talk about how to approach it. But I'll give you an example. A number of our institutions have said--as we've talked about this issue even before the law was adopted--rely on multiple interactions in the course of a week even, or the course of a term, that a student needs to log on and engage in both threaded and non-threaded conversations, synchronous and asynchronous.

And so, some institutions say that the very multiplicity of interactions--that, a, you couldn't pay somebody to do all of that, and secondly, that there is a way of really discerning that somebody would

do it. So, there's no technological solution for that. Others have proctored exams, where they'll exams on a particular site, but not all courses have an exam. Some will require papers and the like. Some are exploring technological solutions, fingerprint credentialing or iris in the eyes, and the like. And that's why we just say that--I think all of us are trying to figure out with a wide range of programs that one approach may not work given the different range of pedagogical approaches to distance learning.

So, we're trying to ask our institutions--and part of the "too early," is how are you thinking of going about doing this? How have you been doing it? And it is something that we would see part of our review process, and we ourselves need to write protocols of how we would expect institutions to come into compliance.

**MR. BERGERON:** Okay. When you speak about proportionality on negotiating committees, we struggle between size of committee and getting the right kinds of representation, and you've been through the process. Could you say something about size of committee and how you get proportionality in keeping the committee small.

**MR. WOLFF:** Well, without trying to be personal about it, there were a couple of people in the last neg-reg committee who were there because of a very special interest, and not representative of a category of either schools or interests. And therefore, in my personal opinion, were not able to contribute a great deal to what was really a wide range of really important issues that we all--then, and in the future, are going to need to talk about. So, my sense is that, number one, that there are--over 50 percent of these students today are in two-year institutions and public institutions--that there really does need to be representation that is effective. I'd also like to say that national associations do represent their constituencies.

There was no one at the table from any of the national associations. We didn't feel we were. We were representing accrediting associations and, as you know, Judith Eaton, perhaps.

**MR. BERGERON:** Yeah.

**MR. WOLFF:** So, it would be the sense of vocational and career schools, traditional, regionally accredited schools, some proportionality of both institutional representatives as well as accrediting agencies.

It was certainly important to have a range of accreditors at the table, because, as you know, the non-regionals have taken some very strong steps, and we can all learn from one another.

**MR. BERGERON:** Thank you, Ralph.

**MR. WOLFF:** Thank you very much.

**MR. BERGERON:** Dana Pomerantz [sic].

Good morning, Dana. Thank you for coming.

**MS. POMERANTZ:** Good morning. My name is Donna Pomerantz.

**MR. BERGERON:** Oh, I'm sorry.

**MS. POMERANTZ:** That's fine. Let me get situated, here. Just one moment, please.

**MR. BERGERON:** Take your time.

**MS. POMERANTZ:** My name is Donna Pomerantz, and I am here on behalf of the American Council of the Blind. And the American Council of the Blind is eager to lend its many years of experience concerning accessible, instructional materials by sitting on the Advisory Commission on Accessible, Instructional Materials in Postsecondary Education for Students with Disabilities, as constructed under the Higher Education Opportunity Act. ACB was a leading participant in efforts to develop the legislative provisions regarding access to textbooks for K through 12 students. We worked tirelessly for over two years with blindness organizations and textbook publishers that resulted in the instruction--excuse me, in the introduction of the Instructional Materials Accessibility Act, which called for a national file format and a textbook repository. This legislation was eventually incorporated into IDEA in 2004. Since then, staff, has actively worked with congressional staff to identify solutions to be included in the Higher Education Opportunity Act. This includes--the lighting is very interesting for me up here, too. So, bear with me, please.

**MR. BERGERON:** I fully understand, because this is very bright light that shines in my eyes, making it hard to read the paper in front of me. So, I understand exactly what you're going through.

**MS. POMERANTZ:** It is.

**MR. BERGERON:** Thank you.

**MS. POMERANTZ:** And I read probably a font size of approximately 28 to 36. So, bear with me, as I'm a little bit slower here in the reading. will continue. This includes the insertion of language in Section 772 that calls for more than one organization representing the

interests of the blind and visually impaired community on this advisory commission. We have access to individuals with both public policy and technological expertise who could provide valuable insight to this commission. These individuals are well versed in best practices for meeting the needs of both blind and visually impaired students.

ACB has a long history of working together with our student affiliate, the National Alliance of Blind Students, to improve both the accessibility and quality of education for all students who are blind or visually impaired. Because our affiliate is primarily comprised of college students, higher education issues are a major part of this effort. It is ACB's sincere hope and expectation that we be appointed to sit on this advisory commission. We have the expertise and the know how to provide leadership regarding this critical issue on behalf of college students who are blind or visually impaired.

Thank you very much for allowing me to comment before you today.

**MR. BERGERON:** Questions? I don't think we have any. Thank you, Donna.

**MS. POMERANTZ:** Thank you.

**MR. BERGERON:** David Burns is our next witness.

**MR. BURNS:** Good morning.

**MR. BERGERON:** Good morning.

**MR. BURNS:** My name is David Burns. I am the Director of Emergency Management for UCLA. I'm also affiliated with the International Association of Emergency Managers as the first Vice Chair of the University and Colleges Committee, and President of the California Campus and University Emergency Managers Association. I'm speaking mainly today about UCLA's issues just as--represent emergency management issues. I also have some concerns about fire safety standards, but it's not my area of expertise. I'd like to thank you for the opportunity to provide comments on the proposed negotiated rulemaking process to implement the Higher Education Act of 2008.

I respectfully request that the Department develop regulations for the following public safety emergency provisions contained within Title IV, Part G, Section 488 of the HEOA through the negotiated rulemaking process--that a separate negotiating committee be established for these complex and vital issues surrounding the campus environment, and that members of the International Association of Emergency Managers, the Universities and Colleges Committee, IAEM UCC,

be appointed to the negotiated rulemaking process. And part of the reason for that is, I think, if you look at campus safety emerging after Virginia Tech and national--or Northern Illinois University, and many other instances occurring today--just--they had a pipe bomb explosion at Florida this morning. There are multiple disciplines involved in how public safety and emergency management across campuses nationally are comprised. You have law enforcement emergency managers, environmental health and safety specialists, fire departments, general services, facilities, and a whole other myriad of disciplines and institutions on a college campus providing public safety or managing or coordinating public safety. In fact, some poor soul gets tapped on the shoulder who has no credentialing, no experience, but works there and is told, "You are the emergency manager. You now write the plan." That's a rare instance, but it's realistic. So, I have concerns about the rules, process, and policies associated with rulemaking in the following areas:

Specifically, emergency notification. This is an area of the law where the terms used will need to be carefully defined. As an emergency management practitioner for 25 years working at the largest populated campus in California, it's important to understand there is no nationally approved standard for the term "emergency." The U.S. Department of Homeland Security, DHS, Federal Emergency Management Agency, and the major public safety associations, the International Association of Campus Law Enforcement Administrators, IACLEA, the International Association of Emergency Managers, the National Emergency Managers Association, NEMA, which is the state directors, the International Association of Fire Chiefs, the International Association of Chiefs of Police, University and College Section, and the National Association of Police Organizations, have yet to agree or establish any consensus on the word or term "emergency." Even federal law does not address this, except under the Stafford Act for Presidential Declarations. So, there is no--and when you throw in "significant emergency" or "dangerous situations," which has been used in previous legislative attempts at the bills and modifying HEA, you run into some real issues. In fact, five new bills have been passed in the last two weeks through the House and Senate and may end up in the Higher Education Act as addendum bills.



So, using the events of the past few years as examples, notification of an incident needs clear definition for the reporting of an event after confirmation of that event and allowance for personal evaluation of that event prior to a campus-wide alert. For example, does the federal government intend to prescribe a reporting protocol for a single student with a transmissible infectious disease such as meningitis, or in some instances what Michigan has been dealing with E. coli and food poisoning, because public health emergencies don't fall under campus and DOE legislative jurisdiction, they fall under public health, which is regulated state and federal law. Or for that matter, would notification take place for a hurricane that's still days away from making landfall? Is notification required for a credible terrorist or bomb threat? We deal with these every month, especially during finals. There are a myriad of issues that campus emergency officials contend with every day in determining appropriate emergency notification. The overuse of notification systems can significantly disrupt the entire campus community. If the guidelines issued are too broad, we can see the emergency notification process will create substantial false alarms, which disrupts classes and limits the confidence in those systems.

At worse, it lessens the credibility in campus warning systems and procedures. We could actually have people start to ignore them because they don't trust them, because they're issued so frequently.

In all cases, the definitions, the terms, for compliance and, more importantly, the exercise of notification procedures need to protect those on campus. Judgments or further events off campus that may spread to the campus need to be clearly defined. In all instances, the professional judgment of first responders, emergency managers, and other campus health and safety personnel must be balanced with a notification requirement to ensure that emergency situations are communicated to those on campus in ways that are timely, accurate, and useful. And I haven't even really got into this, but the cost impact of an emergency notification is substantial. UCLA has spent \$600,000 in the past 18 months implementing emergency notification systems. When you talk about emergency notification, you're talking about indoor systems, outdoor systems, and e-technologies. And since Virginia Tech and Northern Illinois, SMS and text messaging have become the popular choice, but that could change and those systems aren't effective. These

systems have to be robust, they have to be redundant, it requires multiple systems, it's very expensive.

The IAM did a research--looking at universities nationwide. It would cost each university approximately \$1 million to implement indoor, outdoor, and e-tech systems that are robust and redundant. Nationally, that could cost \$4 billion, with a "b."

The other area of concern is regarding emergency response and evacuation procedures. Higher education institutions must provide the campus community with a statement of policies and procedures related to emergency response and evacuation, in essence, requiring the establishment of emergency operations or management plan. This will be the most complex issue for negotiated rulemaking. The many different missions, resources, programs, structures, and make-up of the country's colleges and universities will necessitate a level of flexibility, understanding, and care to implement this provision. Even a summary discussion of this topic would require a multi-page submission. As a campus emergency management practitioner, I'm keenly aware of the need to plan for emergencies. I understand that this subject must be given special and focused consideration to ensure proper and appropriate application across different institutions, and be applicable to all hazards, and I strongly encourage the Department to do the same.

UCLA is an institution comprised of 30 divisions with 340 separate departments, working at 175 facilities on 419 acres. Do the new regulations require annual evacuation exercises at each facility, just housing, or both on- and off-campus housing? Only the facilities associated with those housing--or various other issues? The Department needs to issue clear guidance so the effected public safety disciplines can meet the compliance issues under the HEOA. So, given the complexity of the issues subject to the new regulations, it's imperative that college and university professionals with practical experience of credentialing in these areas be included in the substantive rulemaking process and discussion. So, again, I formally request the appointment of members of the International Association of Emergency Managers, the University and Colleges Committee, UCC, to the negotiated rulemaking panels involved with these decisions. The IAEM UCC represents the emergency management issues surrounding college and university campuses at over 400 institutions nationally, and is dedicated to promoting the

goals and saving lives and protecting property during emergencies and disasters.

Thank you.

**MR. BERGERON:** Any questions? Thank you, David.

**MR. BURNS:** Thank you.

**MR. BERGERON:** Catherine Graham. Good morning, Catherine.

**MS. GRAHAM:** Good morning, David. Thank you.

**MR. BERGERON:** Thank you.

**MS. GRAHAM:** I'm very excited to be here representing my colleagues, Darlene and Crystal, who are practitioners like me, working in a financial aid office here in California. My name is Catherine Graham. I represent Loyola Marymount University as the Director of Financial Aid. Several of my colleagues for which I work with are also here. Pat has given some very good testimony today for which we would like you to consider to the fullest. I've been in financial aid for 19 years. I've worked at four schools, and I've been a Director at three. I'd like to speak today as practitioner about the impact of the TEACH Grant as well as the Part B student loan program.

As it pertains to the TEACH Grant, the last I checked, there were 19 schools in California that have implemented this program. We are pleased that, on behalf of our students, we have in fact implemented this program, for which we expect 450 students to take advantage.

The implementation program has been tremendous, and we are further bogged down by the notion of the entrance counseling requirement. So, although I know it's not exactly on the table today, I'm hoping that perhaps that could be addressed. More importantly, though, we would like to be able to guide and advise our students at LMU, and any student that takes advantage of the TEACH Grant Program on what their expectations could be, should there be reasonable circumstances for which they cannot seek or obtain the employment for which the continuation of the program as a grant be sustained. So, at this point, I would like to request that the Department establish regulations that are broad enough to include a variety of reasonable circumstances and a process by which the recipient may appeal a negative decision. As it pertains to the Part B student loan program, I'm pleased to report that a recent release of our cohort default rate was less--was exactly 1 percent, and we attribute our successful default rate, as many of my colleagues would do, to the--due to the

efficient and effective work of their contributions to our in-person exit and entrance counseling. I'm speaking of our guarantor and our lending partners. We believe that our lending partners and our guarantor partners have a very good and precise handle on what is happening in the student loan marketplace, and are best equipped to guide and advise on both entrance and exit counseling.

Thus, my point is that we request that the Department reaffirm that the role of the lenders and guarantee agencies in both entrance and exit counseling are critical. I'd like to thank you for your time today, and Loyola Marymount University will be submitting written testimony on other issues for which I did not address today. Thank you.

**MR. BERGERON:** Thank you, Catherine. Would you like to say anything more about the kinds of things that your students--you think your students need to hear, particularly when they sign up for a TEACH Grant. Is there some central message you would like us to try to find to communicate through our whatever-we-do in terms of counseling?

**MS. GRAHAM:** The counseling requirement is one of the things that we've had to incur a tremendous amount of both fiscal and time burdens. We've had to put together the entrance counseling tool. If you could hurry along on the entrance counseling tool for TEACH Grant, that would be most appreciative. I don't know what message you could give, but we--we're struggling with this component.

**MR. BERGERON:** Okay. I just was curious if there was something in particular as you've been working with students that you think is important to get across.

So, if--as you work on your written comments, if you could give us some suggestions on the kinds of messages we need to emphasize in developing that tool, that would be great.

**MS. GRAHAM:** Thank you very much, David.

**MR. BERGERON:** Thank you, Catherine. Sharon Iverson. Good morning, Sharon.

**MS. IVERSON:** Good morning. I'm here representing the American Speech Language and Hearing Association. In doing this, I'm representing speech language pathologists throughout the fifty states of our Union. The Higher Education Opportunity Act signed into law on August 15, 2008 reauthorizes the Higher Education Act of 1965. HEOA includes several provisions to make postsecondary education more affordable and accessible, including changes in HEA's student loan

programs. HEOA creates a new loan forgiveness program for professionals identified as having a shortage. School-based speech language pathologists and audiologists are among other professionals eligible to apply for this program: up to \$2,000 in a year for no more than five years, and \$10,000 in the aggregate of outstanding loans would be forgiven. It is my understanding that there are no current appropriations to fund this program. Loan forgiveness is one tool that states and school districts can use to help recruit and retrain qualified school-based speech language pathologists and audiologists. However, federal education statutes and regulations on student loan forgiveness are incongruent and need to be harmonized. There is a growing need for school-based speech language pathologists and audiologists. The Bureau of Labor Statistics estimates that between 2004 and 2015, more than 14,000 additional speech language pathologists will be needed to fill vacancies, a 15 percent increase in job openings.

Similarly, according to the BLS, more than 3,000 additional audiologists will be needed to fill demand between 2002 and 2012, a 29 percent increase in job openings. Many Title I schools fight a constant battle to recruit and retrain qualified personnel, including qualified speech language pathologists and audiologists. The U.S. Department of Education's 24th annual report to Congress on the implementation of IDEA, states that almost half of all school-based SLPs will be eligible for retirement by 2017. The study concludes that, unless the number of newly prepared SLPs increases substantially, a severe shortage will be unavoidable. The new loan forgiveness program under HEA would encourage SLP and audiology graduates to accept positions in school-based settings. In my district, we have tried sign-on bonuses, we've tried stipends onto the teachers' pay scale, and we still--we're the third largest school district in the State of California--we still end up hiring some years--as high as 15 private sector speech language pathologists at a cost of \$120,000 per person, whereas our district-based speech pathologists start at \$49,000.

In addition, the shortage of educational audiologists has emerged as one of the most serious challenges in implementing school-based hearing and screening programs to ensure that identification, auditory management, and the education, communication, and psychosocial needs of children with hearing loss and/or auditory processing disorders are not

neglected, adequate numbers of audiologists must be available to provide services to children. In some locations, there is 1 audiologist for every 10,000 children, age birth through 21 years old, to provide screening and basic diagnostic audiological services. I want to make mention that ASHA supports the current statutory regulations related to accreditation and requests that the Department of Education not consider accreditation as part of the negotiated rulemaking.

ASHA also supports, as an accrediting body, the Council on Academic Accreditation as the recognized specialized accreditor for the professions of speech language pathology and audiology. Judgments about student achievement should remain in the hands of institutions, and should not be shifted to the federal government through the Department of Education's role in recognizing accredited organizations. The core of accreditors' activities should be on standards to support the student acquisition of knowledge and skills on protocols for how programs can demonstrate that students are achieving the necessary outcomes. Accreditation is a highly successful and well-tested system of quality assurance and quality improvement. ASHA requests that the Department of Education include speech language pathologists and audiologists among the providers eligible for funds under professional preparation programs in Title II. Induction into teacher training and recruitment efforts should be extended to speech language pathologists and audiologists as they are an integral part of the special education team. In response to identified shortages of school-based speech language pathologists and audiologists, Congress identified them as professions eligible for loan forgiveness in areas of national need under Title IV, allowing speech language pathologists and audiologists access to professional preparation funds under Title II is another means by which to retain and recruit these professionals.

Speech language pathologists and audiologists should be provided with the same access to training and education opportunities since they are part of a student's education team. I've often been asked by our beginning speech language pathologists why, when they work side-by-side in small offices that are--often have bathroom tile on the walls--that they are not given the same consideration as their special educators that they work side-by-side with for loan forgiveness. States should be given flexibility to utilize funds to provide training opportunities to

all professionals who provide services to children in schools. Thank you very much for this opportunity to address you.

**MR. BERGERON:** Thank you.

**MR. MADZELAN:** I do have a question for you. You correctly note that this particular provision to which you spoke, this student loan forgiveness, is not like our existing teacher loan forgiveness in that it is not mandatorily funded. It does require appropriations which the--Congress has not done yet--of course, no expectation that they would have at this time. But given that, with, you know, a discretionary approach to the funding, which means that the Congress would appropriate a specific amount of money for this activity, to provide loan forgiveness to these persons--is there anything in the statute regarding eligibility of persons to receive this loan forgiveness benefit that needs to be adjusted, either expanded or perhaps constricted?

Again, the notion is, if the Congress provides a fixed amount of money, and that amount is less than the demand that is out there, then you kind of turn this into a first-come first-serve benefit. And I'm wondering if you think that perhaps a way to address that or perhaps mitigate this first-come, first-serve approach is maybe some modifications to the eligibility requirements that are specified in the statute. I'm wondering if you've given any thought to that, or you think the statute is dead-on with respect to the eligible population.

**MS. IVERSON:** Well, what I'd like to do in addressing that is get back with Catherine Clark, who is ASHA's educational person, and pass that along to her, and maybe she could contact you.

**MR. MADZELAN:** Yeah, we're still--

**MR. BERGERON:** We're receiving public comment until--in general, until October 8th, and we'll have our last hearing in Cleveland on--I think it's October 15th. So, we have a little more time in the public comment hearing during which we can hear.

**MR. MADZELAN:** Yeah, this is the kind of thing we're interested in, because these discretionarily funded loan forgiveness programs are a special challenge for us to administer.

**MS. IVERSON:** Right, I understand. We have a lot of budget issues right now. Thank you.

**MR. BERGERON:** Can I--I have a question, also, and that is, you noted that your school district has used signing bonuses and other

financial tools to try to encourage people to come and work for your district, and you've procured outside services where necessary to fill gaps. Have you tried or do you know any other school district that has tried to use loan forgiveness as a recruitment tool, and whether--and if you do know of any, do you know of any success related to that?

**MS. IVERSON:** I do not. The way I understand what I've been told from my district is that isn't in the purview of the school districts, but maybe it could be. Maybe I just--

**MR. BERGERON:** Yeah, I mean--school districts and other employers I know have used loan forgiveness or loan repayment programs where they actually make the payments on behalf of the employee while they're employed at that institution or that agency to--and for me, I'm trying to understand how a school district would use a national benefit to recruit students, and I'm having a hard time--I'm struggling with understanding how that works. And so, that's why I was asking the question if you knew of any...

**MS. IVERSON:** No, I do not.

**MR. BERGERON:** Could you pass that question along to your national association, also.

**MS. IVERSON:** I will. Thank you.

**MR. BERGERON:** That would be great. Thank you, we appreciate it.

**MS. IVERSON:** Thank you.

**MR. BERGERON:** Lauren Asher is our next speaker. Actually, Lauren is the last person to sign up before lunch. So, if anyone is in the room that has not signed up and wishes to testify before we break for lunch, that would be very helpful, and if you saw Don or Jessica, that would be great. Lauren, nice to see you again.

**MS. ASHER:** Nice to see you, too. Can you hear okay through this mike?

**MR. BERGERON:** Yes.

**MS. ASHER:** So, I'm Lauren Asher. I'm the Vice President for the Institute for College Access and Success, which is a nonprofit, nonpartisan policy research organization. We work to make higher education more affordable and available to people of all backgrounds. I think you know enough about the HEOA. I won't go into our description of it in our written comments. But I want to start with the fact that higher education is more important than ever for today's students and families and for our economy as a whole. It's also gotten more



complicated than ever for families to figure out how to pay for college. My comments are going to focus primarily--or solely on the Title IV provisions, and somewhat narrowly on areas where we have some expertise and think the stakes are significantly high for students and families. This regulatory process is an important opportunity to consider not only the specific provisions in the HEOA, but also how well the amended HEA as a whole fulfills the overarching purpose of our financial aid system, and that purpose is to give all Americans a fair shot at a college education regardless of their income or family background.

The way our financial aid programs are administered makes a tremendous difference in whether they actually achieve the intended goals of educational opportunity that Congress intended.

The timing, quality, and accessibility of information about aid--who is eligible, what is available, what it can pay for, and how to get it, these affect critical decisions about whether to go to college at all, what kind of college to go to, and how to pay for it. These decisions, including whether to borrow, how much, and from whom can make the difference between getting ahead and falling behind for a lifetime. We ask the Department to approach this rulemaking process from the perspective of the students and families who will be affected by their recommendations. These include not only today's high school juniors and seniors and their parents, but also fifth graders who have yet to start even thinking about college, students who are already in college and struggling to pay their bills, and millions of borrowers who are trying to pay off their student loans without knowing if they'll be able to put their own kids through college. We have suggestions for several issues, and we recognize that many other important issues will be raised by others here today. I also just want to clarify whether you'll be accepting additional comments through the 8th or the 15th.

**MR. BERGERON:** We are receiving them through the 8th through our e-mail address, and then--but we will have one additional hearing on the 15th.

**MS. ASHER:** But you'd have to be there in person to submit them.

**MR. BERGERON:** Yes, please.

**MS. ASHER:** Okay. The first area I want to address is the need to improve rules for financial aid information that colleges are required

to provide to prospective and current students. The Department already requires departments to provide a wide range of information about financial aid. It should review these requirements with an eye to what students and families really need to make informed decisions.

For example--and these are not exhaustive examples, for everyone's sake--the current regulations require colleges to provide information about the "general categories" of financial aid that are available to their students. This should be amended to require colleges to list gift aid separate from loans, distinguish federal from non-federal loans, and if non-federal loans are listed, to make clear that they do not come with the same borrower protections as federal loans.

Another example: Colleges are required to publish and "make readily available upon request to enrolled and prospective students the institutions total cost of attendance," among other things. Students should not have to request the total cost of attendance figure; however, our examination of financial aid award letters from a wide variety of colleges around the country indicates that many students would have to do just that when they're dealing with the decision about whether they can afford that particular college based on the actual offer they've received. The total cost of attendance should be provided as a matter of course in all financial aid award letters in a way that students can see how grant and federal loan aid, separately and together, affect their net cost. We also recommend drawing a distinction between grant aid that is only available for covering tuition at a particular institution and state or federal grants that are portable and can be used to cover the full range of college costs. As I know you know, there's a lot of misperceptions among students and families about what aid can be used for. Often, the assumption is it can only be used for tuition and fees, and that can really constrain decisions.

We also want to encourage you to integrate information about income-based repayment and public service loan forgiveness into existing regulations wherever relevant. The proposed rules for the CCRAA don't actually address all those instances. They cover some important ones, but there are a lot of other ones throughout the regulations. For instance, rules governing entrance and exit counseling for federal loans, as well as disclosure requirements for lenders must be reviewed in light of the availability of these two new programs,

which expand repayment and forgiveness options. There's a requirement, for example, that entrance counseling include "sample monthly repayment amounts," based on several potential factors. These do not currently include income. So, income really needs to be factored in, as well as indebtedness in providing people with general estimates of what repayment might look like, to help them understand whether income-based repayment would be useful for them and what it would mean.

Entrance counseling is also an opportunity to warn students about the hazards of private student loans and the availability of Parent PLUS Loans, which leads me to a broader point about the need to protect students from direct-to-consumer marketing and private loans when possible. The Department really should maximize all opportunities to distinguish private from federal loans and required information from both colleges and lenders.

The Department should also aggressively monitor the "self-certification process," established by the HEOA, in which students download a form or do something else that they then report to the lender with their full cost of attendance and other amounts that could lead to excessive borrowing and enable fraud by both lenders and borrowers, because those numbers aren't verified by the school.

There's also a need to reduce the potential for gaming by private proprietary schools. The Department should carefully review in consultation with experts in consumer protection the changes to the 90-10 rule for proprietary institutions. For example, the provisions allowing some additional revenue to be counted within the 10 percent are open to wide interpretation and create the potential for dangerous loopholes and gaming. In particular, college could inflate its published tuition, let's say, by \$5,000, and give all students a \$5,000 grant or tuition discount, and claim that discount as qualifying for non-Title IV revenue. The rules should define qualifying discounts in a way that prevents this particular form of gaming. It's also important to limit conflict of interest between lenders and colleges. I know that the HEOA in some ways provides more room for conflict of interest than the Department's own proposed regulations. The HEOA does go a long way towards limiting conflicts of interest, but it does not eliminate the potential for abuse. Students and their families turn to campus financial aid offices for help in making wise borrowing decisions, and they expect to get full and fair information about their financial aid

options. The Department needs to set clear parameters about appropriate levels of involvement by lenders and guarantors in the loan counseling process, and we believe narrow them as much as possible to prevent sales tactics that can be hidden in other types of informational activities. One way to deal with that is for the Department to develop and disseminate tools and information that give colleges good, unbiased alternatives to information provided by entities that have a more vested and conflicted interest in the students' ultimate decision.

Finally, we ask the Department to more clearly indicate the significance of cohort default rates. Agency review and public scrutiny of cohort default rates should focus on institutions where the rate is the most likely to represent a real problem with institutional quality and compliance. This is not the case at colleges where a low proportion of students have federal loans, and that includes most community colleges. We recommend the Department clearly distinguish between institutions that are subject to sanctions, and those that would likely be exempt due to low participation rates; however, we don't necessarily recommend not publishing those rates for schools that might meet those criteria, and we have provided some suggestions in the past, and we'd be happy to continue those discussions.

So, thank you very much for this opportunity. We may provide some additional or more specific notes before the end of the 8th, and are available for any questions.

**MR. BERGERON:** Thank you, Lauren.

**MS. ASHER:** Thank you.

**MR. BERGERON:** I think that concludes the list of people who have signed up to testify this morning. So, unless there are others who wish to testify before we take a break for lunch, we'll adjourn until 1:00.

Thanks, everybody.

[Recess.]

#### **AFTERNOON SESSION**

**MR. BERGERON:** Good afternoon. We're going to go back and reopen the hearing. We have, at this moment, two people who have signed up to testify, and so we'll hear from those two people. If others have an interest in testifying, see Don or Jessica and they will sign you up. Our first witness of the afternoon is Ronald Johnson. Ronald, welcome.

**MR. JOHNSON:** Good afternoon.

**MR. BERGERON:** Good afternoon.

**MR. JOHNSON:** My name is Ronald Johnson and I am the Director of Financial Aid at UCLA, and I wish to concur, first of all, with my two colleagues who spoke earlier, Pat Hurley and the President of the California Community College Student Association, as we are partners in the pipeline of helping students attain their undergraduate degrees.

I am very concerned about the provision in the Higher Education amendments which allows families to refuse to contribute to their children's education. I believe this encourages a breach in the longstanding partnership of the student, parent, federal government, and institution. And if this particular provision or option is allowed to be implemented without very detailed oversight, I believe it will create and encourage students and mostly parents to ignore their responsibility to contribute to their child's undergraduate education.

More than a third of parents today have either decreased the amount of money that they save for the children's college cost or stop saving completely, and this was based on a survey that was recently done by Fidelity. I am concerned that if this provision is allowed to be implemented without, as I said, detailed oversight, it will erode the necessity the parents to feel that they must maintain their role in the partnership which has been longstanding and has been a tenet of financial aid. So, I'm hoping that there will be some very serious discussion and review and guidelines that will provide good guidance to schools. If families are unable to contribute to their education because of reasons of not having the resources, we will certainly address that through many of our processes, professional judgment, et cetera. The other concern that I have has to do with the FAFSA. As I agree with the fact that there should be every effort to achieve the goal of simplicity, I am also concerned that we don't go to the extreme and not give us the tools to assure that students who have legitimate financial need are not addressed. So, I want to make sure that we do not set up a situation of major loopholes that will allow people to drive literally trucks through.

Thank you very much.

**MR. BERGERON:** Thank you, Ronald. Dan, you got any questions?

**MR. MADZELAN:** No.

**MR. BERGERON:** Elaine Mozena. Did I get that anywhere near right?

**MS. MOZENA:** That's close-as close--

**MR. BERGERON:** Mozena. Thank you.

**MS. MOZENA:** Thank you for the opportunity to speak. I am Elaine Mozena from California State University, Northridge, and I am the University Collection Officer. And I was just seeking some clarification that perhaps you can do during this process on Section 430 under loan forgiveness for service in areas of national need. They have one of the qualifications for forgiveness being a--highly qualified teachers, and I think it would be very helpful if there was a deeper definition of highly qualified teachers.

Also, national service, I think, needs to be clarified, as well as public sector employees, because I know when we get into discussions with our former students on cancelations, there will be those that could be just a clerk, could be a janitor--it could be any segment. And without a real defined definition, they may think they may qualify under this guidance here.

That's all I have. Thank you.

**MR. BERGERON:** Okay. I think we have a fairly extensive definition of "highly qualified teacher" that we use in the teacher loan forgiveness program that we currently have in FFEL and Direct Loans, and that's derived largely from No Child Left Behind--so I think that, in that area, there's actually quite a bit of guidance that we've already provided. Could you speak a little bit more about your concern about public sector employee.

**MS. MOZENA:** Well, a lot of times, as I said, there will be people that--we had cases where someone's just a clerk in the IRS, as an example, and they think that they can qualify for a forgiveness. So, sometimes just working in a department, they think that they qualify, and I don't know how you can narrow it down, but it might be helpful if we had a little bit more specification on exactly who would qualify under that public sector.

**MR. BERGERON:** So, your concern is that we attempt to narrow it or define it in such a way that it's easy to identify who those individuals are.

**MS. MOZENA:** Right, especially when they get their form and it's like they think that they can qualify, and they can't.

**MR. BERGERON:** Thank you.

**MS. MOZENA:** Thank you.

**MR. BERGERON:** I do not know that we have anyone else who has signed up to speak at this point. So, what we're going to do is adjourn to reconvene at 1:45. Thank you--recess until 1:45. We'll recess.

**[Brief recess.]**

**MR. BERGERON:** Good afternoon. We're going to go ahead and resume the hearing. Catherine Jackson is the next person to come and speak to us. Good afternoon.

**DR. JACKSON:** I'm going to adjust a little bit upward.

**MR. BERGERON:** Yes, the last person was a little shorter than...

**DR. JACKSON:** Yes, I wasn't thinking I was that tall, so--well, it's nice to be here. As you just heard, my name is Catherine Jackson, Dr. Catherine Jackson. I've been a speech language pathologist for over 30 years. I'm currently an Associate Professor at California State University, Northridge in the Department of Communication Disorders, and Sciences, and that's the academic field for speech language pathology and audiology. I'd like to speak to you on behalf of the national organization which governs and supports speech language pathologists and audiologists, and that organization is called ASHA, the American Speech Language Hearing Association. And you're nodding yes, I see. You've heard of it. Even more importantly than speaking on behalf of ASHA and my university, I'd also like to speak to you on behalf of my graduate students. So, in our field of speech language pathology and audiology, universities prepare our students to work in a variety of settings: private practice, medical settings, and also educational settings. Here in California, in the San Fernando Valley, which is where CSUN, Cal State University of Northridge, is, I see enormous potential in our students to address a big issue in education, which is the chronic shortage of trained professionals in communication disorders and sciences. I'm going to take a moment to tell you about some of the characteristics of our undergraduate and graduate students since the terminal degree for us is a graduate degree. At CSUN, our students are typically multilingual, they're from a variety of cultures. Many of them are starting out as post-baccalaureate students, so they come from a variety of other fields with a desire to do--work in a field of service. They're uniformly, unbelievably excited about speech language pathology and audiology, and most of our students want

to work either partly or entirely with students--with children, even though they also might want to work with some adults. When I watch these students progress throughout their program, I notice that it's not an easy path for them. Their path appears to others contemplating this field difficult and at times unattractive for a variety of reasons. One is that they take out extensive loans to fund their graduate education. Another is that they also at the same time work throughout graduate school. And those two factors combined serve to protract the course of their education, so that it takes them longer to achieve their degree. And then, as they start their career, they're faced with the burden of loans, and it is not as if they are training in a field where they will be rewarded with extensive financial results. Now, despite these negative factors, our students persevere. We graduate 72-75 master students each year, a pretty substantial number for one university in addressing the shortage. Many of our best students state that they are not considering employment in the schools upon their graduation. Well, what makes this public school position unattractive to them? Primarily, they cite the enormous and overwhelming caseloads caused by the shortage of speech language pathologists in the state, but also everywhere else. They understand, because of the shortage, they will not be able to--they will be shortchanging their students. They've also spoken to those of us who are already out in the field in the public school setting and who are burned out and have gone into private practice or into a medical setting of some sort, anywhere where they feel they can actually do their job and have some kind of impact.

I'm going to tell you about an incident yesterday, when I spoke to a group of graduate students. This was a group of ten graduate students in a very intimate clinical class, and we spent a lot of time together. I took an informal poll. First, I asked how many of them were hoping to work with children. Out of the--actually it was eleven graduate students--ten out of the eleven said that they wanted to work some or all of their practice--have that be with children.

So, then I talked with them and familiarized them with the Higher Education Opportunity Act, and I outlined the work of the amendment committee in including speech language pathology and audiology students in the loan forgiveness program. Two additional students indicated that, if this was funded, that that might change their focus to public



school practice. So, now we're two--out of the eleven, we have three that are considering public schools. All of them were disappointed--and our students don't fail to express themselves when they're disappointed--that there was, currently, no funding mechanism set aside. I elaborated further. I told them, if speech language pathologists and audiologists were included in Title II funding, they would have access to funds to continue their education and their training to maintain their skills and their national certification.

At this point, I had their full attention. They were beginning to realize the full benefits of the Higher Education Opportunity Act, the possibility of taking out more loans, completing their education in a more timely fashion, because they would be able to work less and take more courses every semester, knowing that their employment in the schools would allow them to participate in loan forgiveness, the financial incentive of the continuing education benefit under Title II once they were out in the community, and, finally, the potential increase in the total number of specialists, then, who would be attracted to the public schools, making their caseload and their work more manageable. All these things together, I think, would make public school employment much more attractive: smaller caseloads, fewer lawsuits by families who had been underserved by the SLP shortage, and children who got the appropriate services. At this point, eight of the eleven said, under those conditions, they would consider working in the public schools. It is clear to me, at least, that the Higher Education Opportunity Act can make a difference in the availability of the SLPs in the school, it could decrease time to graduation and encourage more students to enter the profession and to enter the public school educational team. Ultimately, it seems it could address the current crisis of the unavailability of speech language pathologists in California and elsewhere, and because of that, I think we need to do everything possible to provide speech language and audiology services for--to provide the opportunities inherent in the Higher Education Opportunity Act. I want to thank you for allowing me to state some of the current concerns that faculty members at a university level and also that students have. This is a field that attracts people that are very passionate about our work, and I have had a passion for this field and for the work that we do for more than three decades, kind of a long time. I support any effort to continue to supply the Nation with

specialists who can carry on our work, and it seems clear to me that the tripartite effects of the Higher Education Opportunity Act would allow us to do so. It would allow--it would, to summarize, allow inclusion of our field in Title II funding, it would allow loan forgiveness, and it--if we continued with the current statutory requirements required for accreditation, just be an enormous step towards ensuring the availability of speech language pathology and audiology services in our public schools.

Thank you.

**MR. BERGERON:** Thank you. Janice Woolsey.

**MS. WOOLSEY:** I'm short.

**MR. BERGERON:** Good afternoon.

**MS. WOOLSEY:** Hello. My name is Janice Woolsey. I'm the Clinic Coordinator and an instructor in the Department of Communication Disorders and Sciences at Cal State Northridge. I want to thank you for giving me this opportunity to address the Committee. I've also submitted my comments in writing at the front for you.

**MR. BERGERON:** Thank you.

**MS. WOOLSEY:** And I'd like to convey to you the feedback from those I represent, so let me tell you who I represent: the speech pathology training programs and the students in fourteen public and private universities in the State of California. I sit on the board of the governing body for all of our universities, and also the members of the American Speech Language and Hearing Association. I also speak to you today as the Commissioner of Publications and Research for the California Speech Language Hearing Association. I wear many hats. I reviewed the Higher Education Opportunity Act as it was signed into law this past August. I want to extend to you my great appreciation and that of our students to the amendments committee for including speech pathology students in loan forgiveness.

Here in California, we have been experiencing a shortage of speech pathologists in the schools for several years. There are school districts in our state who have been assigned court monitors now to assist with implementing IEPs for children in need of speech pathology. One such district here in Southern California reported that more than 2,000 school children missed speech pathology services, IEP-mandated speech pathology services, this past year due to a shortage of qualified practitioners; that's a tremendous number of children not

served. We're also experiencing retirement in large numbers. When I read the statistic that almost half of all school-based speech pathologists will be eligible for retirement in 2017, I'm both shocked and saddened. This represents a huge brain-drain.

The experienced personnel from whom our graduates could learn are leaving at a huge rate. But since we can't slow down the clock, I know that, since this fact is inevitable, we need to plan ahead. Our task now is to plan to fill every position before it becomes vacant. I see no way to do this without such enticements as loan forgiveness. The cost of higher education increases every year. I'm putting two daughters through college, so I'm also aware of the tuition cost, and the length of our programs continues to grow as new knowledge and skill areas are added to our basic curriculum requirements. In our clinical training programs, we prepare students to work in the schools, offering them the required coursework, and the onsite public school-based training that they need to become credentialed in this state. I believe this extra enticement of loan forgiveness would be all that many of our students would need to choose school-based speech pathology or audiology careers over private or medical settings, as Catherine has mentioned. It's my understanding that the authorization to include speech pathology and audiology students is only step one, now the authorization has to be funded. I respectfully request that funds be appropriated for the benefit of speech pathology and audiology students who wish to commit to working in the schools, and I invite you to call upon me and my university colleagues here in California to help or advise you in any capacity needed.

Secondly, I would like to speak to you briefly about the accreditation process. Our national organization, ASHA, has requested that the accreditation statute be left alone. ASHA and its members support the current statutory requirements related to accreditation, and respectfully request that the Department of Education not include changes to the speech pathology and audiology accreditation process in this round of negotiated rulemaking. The fields of speech pathology and audiology are complicated. ASHA has standards that they've set for minimum competencies for any university program across this country. So, there are approximately 240 minimum competencies for--each--for speech pathology and audiology. This carefully thought-through process for universities to certify the minimum competency of every student

coming through the program is designed to ensure that the students demonstrate entry-level academic knowledge and clinical skills in all general areas of the field. This prepares them for their clinical fellowships in a variety of settings: school-based, hospital-based, medical-based, and private practice. A new speech pathology master's graduate entering the schools from an ASHA-accredited university program would be prepared to see school children with disorders ranging from articulation and phonological process disorders, fluency or stuttering disorders, vocal pathology and resonance disorders associated with cleft lip and pallet, language delays, language disorders--including those associated with autism--pragmatic and social aspects of communication, cognitive linguistic deficits, those in need of augmentative or alternative communication devices, and those who exhibit swallowing disorders. These are all listed in the minimal competencies in our ASHA accreditation already.

Our field is also designed so that the new graduates continue their training for the first nine months of full-time work in our field; it's a formalized mentor-mentee relationship with an experienced speech pathologist or audiologist. This ensures the quality of our providers, and with this formal system in place, ASHA feels and I agree that accreditation should not be considered in negotiated rulemaking at this time. We like it the way it is. Ensuring the quality of our providers brings me to my third and final point. I would like to request that school-based speech pathologists and audiologists be included in Title II, thus affording them access to professional preparation funds. Continuing education and training are the hallmarks of great professionals. Some fields like ours mandate a minimum number of hours of training each year to update knowledge and skills. I would also like to submit for consideration that this is an excellent recruitment and retention tool to entice graduate students into school-based speech pathology and audiology careers at a time when hospitals and other medical sites are cutting back or eliminating funds for continuing education while ASHA and many individual state license boards have mandated them. Inclusion in Title II and appropriation of funds for continuing education would bring more speech pathologists and audiologists into school-based practice, and it would keep them there as well.

Attendance is increasing each year at our national and state conventions, as well as the ASHA speech pathologists in the schools convention. All of these conventions provide continuing education opportunities, which is usually the only reason people attend. I'm also a continuing education administrator for ASHA, so I am involved in many of these educational opportunities. I often hear our new grads say that they cannot afford to go to continuing education, but they are precisely the ones that we should be reaching and who should be taking advantage of this. Why can't they go? Many of them are still paying off their loans. So, this would also benefit--the students would also benefit from networking and knowledge sharing that goes on at such convention events. But let's not forget the more seasoned speech pathologists and audiologists in the schools. Retention of our experienced professionals may hinge on inclusion of Title II funding as well. Private practices can lure them away, and sometimes they lure the best and the brightest away with promises of continuing education funding. More important, for the benefit of the children served, these experienced professionals should be funded so they can learn the newest, the latest, and the best practices that, combined with their experience and working knowledge of school-based issues is what will make them great mentors. Financial assistance. Inclusion of speech pathologists and audiologists in Title II funding for attendance as such educational opportunities could only increase the pool of better-trained, more up-to-date speech pathologists and audiologists providing services to children. And I want to thank you for this opportunity to speak for you on a topic for which I too have a lot of passion. And again, if there's anything I can do to help you with this process, I'm happy to help. I wish you a good afternoon, and have a safe trip.

**MR. BERGERON:** Thank you, Janice. I think we may be at another break. If anyone is in the room and wishes to speak and hasn't signed up yet with Donald or Jessica in the back, please do that. Otherwise, we will wait and see if anyone else is available--wants to come forward and testify. Thank you.

**[Recess.]**

**MR. BERGERON:** We'll go ahead and reconvene. Our next person coming to speak to us is Jesse Melgar. Hi, Jesse.

**MR. MELGAR:** How's it going?

**MR. BERGERON:** Great.

**MR. MELGAR:** First of all, I'd like to thank you all for coming out to the LA area; it's very convenient for me. My name is Jesse Melgar. I'm a fourth-year political science and Chicano Studies student at UCLA, and I'm also the Undergraduate Student Association Council External Vice President. What that means is my office does a lot of work with advocacy, specifically in regards to higher education within the UC and beyond. This year, I currently serve as the Chairman of the University of California Student Association Board of Directors. I know this is a lot. I'm trying to slow it down for you all--and UCSA is a coalition of student governments. Every UC belongs to the coalition, both grad, undergrad, and professional students, and we're here today to talk a little bit about--well, I'm here today to represent the over 200,000 students that we represent within UCSA and talk a little bit about the Higher Education Act. So, thank you all for having me.

I'll begin with a little bit more about myself, and kind of why this bill is relevant to me. I am--like I said, I'm going into my fourth year at UCLA. I'm a first generation college student. I receive a Pell Grant. I am under work study. So, I'm also largely affected by a lot of the issues being presented today. UCSA is in coalition with the United States Students Association, so I know there are about five hearings or so, if I'm correct, going on throughout the country, and we have students, you know, hopefully attending each of those meetings. And then, USSA, just so you all know--have a little more background--is a coalition of state student associations--so, whether it be student government or different student organizations

So, with that, I just wanted to talk to you all about some questions I had, and I'll address the Board and let you all know the questions that I have coming forward--but I do want to start with saying we're really excited about the reauthorization of the Higher Education Act. Obviously, in representing students--a lot of the students we do represent come from low-income communities and are, you know, receiving financial aid in the form of, at the state level, Cal Grants, and then, at the national level, Pell Grants and work study, as I mentioned--not to mention Perkins Loans. So, a few things I just wanted to bring up, first of which was the--in reading over the--in reading over the language of the Higher Education and Reauthorization

Act--and please correct me if I'm wrong in my interpretation--but I read a portion that mentioned that students are eligible to receive up to two Pell Grants in a single academic year, and I was just a little unclear as to whether or not that means that they are eligible for a Pell Grant when they enter their fall quarter or semester depending on the school's academic calendar, or if that means that they would be receiving it fall--per semester, and if we're on quarter systems, how that would work--and then, also, if they would be eligible to receive an award during the summer semester or session.

**MR. MADZELAN:** Here's the easy way to think about that. You are an undergraduate. You go to school for four years, you get four Pell Grants. Under previous law, say you accelerated your program so that you finished in three years. So, you did four years' of work in three years, you would get three years' worth of Pell Grants, even though you've essentially incurred four years' worth of cost--right?--but you've just accelerated--

**MR. MELGAR:** Correct.

**MR. MADZELAN:** The notion here is that, if you finish your--you accelerate and you finish your program in three years, you get four Pell Grants. So, again, just that--the notion is, if you accelerate your program, we'll help you with the same funding level that you would have gotten had you not accelerated your program.

**MR. MELGAR:** Okay.

**MR. MADZELAN:** That's the basic idea.

**MR. MELGAR:** So, now, if the students aren't aware that they're going to be graduating in three years and they graduate their third year, how will they receive that compensation for funding in the fourth year they will not be attending?

**MR. MADZELAN:** Well, because they would have gotten, you know, the grant money previously. I know you're on a quarter system, but it's perhaps a little bit easier to think about it in a semester. So, right now, if you went fall and spring, two semesters, you get a Pell Grant. You come back in the summer for a full summer term, maybe you could get a Pell Grant, but it would count against next year. Again, the notion here is that you'd get your one-half of Pell Grant for the fall, one half-year Pell Grant for the spring, and another half for the summer.

So, actually, you get one-and-a-half Pell Grants within one year. So, again, if you do that three times, essentially you've gotten the

same amount of Pell Grant money that you would have gotten over four years. So, it doesn't require you to go around to attend year-round for your whole college career, but if you do that, for example, in one or two years, you'll get the extra Pell Grant money.

**MR. MELGAR:** Okay. Thank you for clarifying that.

**MR. MADZELAN:** That's the concept.

**MR. MELGAR:** Thank you. Thank you for clarifying that. Just a few other questions. I know that there's a potential to expand the work study options. I just wanted to know if you all had any idea about what that means for students as far as--and again, please correct if I'm reading this wrong; I saw your facial expression--expand to jobs that are under different criteria. What exactly is meant by expanding work study options? Does that mean beyond just the campus level into, like, community organizations, because I believe, currently, at least at UCLA, work study is only operational at the university?

**MR. MADZELAN:** Yeah, it's the--the notion there is--and the new language is not an absolute requirement, and you know, that's partly because the existing language is not an absolute requirement. The notion is that, to the extent practicable, colleges and universities should place their work study students in jobs that have some connection to or relevance for their academic or career aspirations. You know, that's a laudable goal, but there's only so many jobs out there in particular areas. So, what the Congress has said in this Reauthorization is that, in addition to what we the Congress have always said, colleges and universities should make an effort to find work study employment in positions that enhance or expand a student's understanding of civic involvement--that kind of thing. So, again, it's--as we say, it's not a hard requirement, but rather a program purpose or objective that colleges and universities ought to ascribe to.

**MR. MELGAR:** Okay. Thank you for clarifying that. And this is the last question: I know that there's a mention of public service loan forgiveness programs and expanding that, and I'm just curious as to how that will be implemented and which fields of public service will be affected by the loan forgiveness program that's being proposed.

**MR. BERGERON:** Well, it's not a program that's been proposed; it's a program that's been enacted, but it is subject to appropriations. So, Congress has to appropriate money for these loan forgiveness programs.



There is an existing public service loan forgiveness program within the Higher Education Act that was added, I think, under the College Cost Reduction and Access Act, for Direct Loans only, where the loans can be forgiven after ten years of repayment under income-based or income-contingent repayment or under the ten-year standard plan. So, that last one gets a little tricky, because it's unclear to me what's left after ten years of paying on a ten-year plan. But in the new law-- and I don't remember all the categories off the top of my head--I think there were 20 or so.

**MR. MADZELAN:** Sixteen.

**MR. BERGERON:** Sixteen new categories. They range from the speech pathologists and audiologists that work in schools--I had this open before.

**MR. MELGAR:** I'm sorry. These sixteen new categories being added after--

**MR. MADZELAN:** New explicit categories.

**MR. BERGERON:** New explicit categories. So, they are early childhood educators, foreign language specialists, librarians, highly qualified teachers serving students who are limited English-proficient, low-income communities, under-represented populations, child welfare workers, speech language pathologists and audiologists, school counselors, public service employees, nutrition professionals, STEM employees, physical therapists, superintendents, principals, and other administrators in schools, and occupational therapists.

**MR. MADZELAN:** The important thing to keep in mind here is that everything that David just mentioned--these are new forgiveness programs, but they require Congress to provide an appropriation. That is different from the existing forgiveness programs we have chiefly for teachers, which--you know, back in Washington, we call these mandatory programs, meaning that, if you, Jesse, meet the statutory eligibility requirements, you get the benefit, as opposed to under these new programs--you know, you, Jesse, may meet the requirement, but if Congress hasn't appropriated the money--you know, you've met the requirement. I mean--so, that's a very important distinction.

And so, if Congress does appropriate the money, that would be a fixed pot. And so, yes, you, Jesse--you meet the qualifications, the eligibility requirements for this loan forgiveness, but you better be a little bit closer to the front of the line--

**MR. MELGAR:** Right.

**MR. MADZELAN:** --than the rear, because the money will run out.

**MR. MELGAR:** How often does Congress appropriate? Is it on an annual basis?

**MR. MADZELAN:** Annual basis, yes.

**MR. MELGAR:** Okay.

**MR. MADZELAN:** And so, these are--as we said, these are super brand-new programs, unlikely to be funded in the '09 appropriation--our fiscal '09 year just started. We have some--yeah, today--yesterday.

**MR. BERGERON:** Yesterday.

**MR. MADZELAN:** Yesterday. Today's the second.

And so, we're under some special rule at the moment, again, back in Washington. So, conceivably and realistically, the earliest that funding could occur would be for Fiscal '10, which is the year that starts October 1, 2009.

**MR. MELGAR:** Okay. That was, actually--those are the three questions that I wanted to bring up. Again, I do thank you all for coming out here. As I said, I'm a Bruin down the street, so it's really convenient. If I want to find--because I know the language is really complex and I'm sure you all are familiar with it, but for people like me and students who want to learn more about the issues, where can you direct us, or do there exist fact sheets that we can just have that, like, outline the changes the from the previous reauthorization to this year.

**MR. BERGERON:** Excellent that you asked, because at some point before I closed the hearing, I had to get the plug for the Web site in.

**MR. MELGAR:** Okay.

**MR. BERGERON:** We're posting all of our information on the provisions of the Higher Education Opportunity Act at a Web site, which is really easy to find. The Department's general Web site is WWW.ED.GOV, and if you add a slash after our normal customary Web site address, URL you type in HEOA, and that's where it will take you to all of the materials to the Higher Education Opportunity Act. We intend to post the--a "dear colleague" letter on that site as soon as it's available. I know the actual text of the public law probably will be posted--maybe today, maybe tomorrow.

**MR. MADZELAN:** But the--your question has given us an opportunity to do a little show and tell, which is--you've been reading, basically, this, the conference report--

**MR. MELGAR:** Right.

**MR. MADZELAN:** --which is amendatory language, which is useful when the Congress writes a brand-new provision, but when they are amending existing language, it's hard to follow. That's why you need the compilation of the Higher Education Act, and the last time the Congress actually printed this, you can gather by my well-worn copy--

**MR. MELGAR:** I take it I can't go to Barnes & Noble and pick one up.

**MR. MADZELAN:** Exactly. It was 1999; is that right?

**MR. BERGERON:** Yes.

**MR. MADZELAN:** 1999. We anticipate the Congress will authorize publication of another compilation that would include the 2008 amendments.

**MR. MELGAR:** Okay.

**MR. MADZELAN:** We are--because we deal with this stuff everyday over here--that we can't wait for that to happen, just to have, you know, the full amended language in one sort of--I won't say easy to read--

**MR. MELGAR:** Right.

**MR. MADZELAN:** --but certainly convenient package.

**MR. MELGAR:** So, on the Web site you gave me, then, is there a--I guess what I'm looking for is for someone who doesn't have the time to read through everything in that novel of a bill. Is there something that outlines, really, like, things that have changed? And if not, like--if I were to recommend to you all on the Web site--you could just outline--the previous bill includes this. This is what's being proposed that's changing--just because it's a lot easier to follow, at least for students who I've spoken to.

**MR. BERGERON:** What we will be releasing is a "dear colleague" letter that summarizes in plain language--

**MR. MELGAR:** Okay.

**MR. BERGERON:** --as close to plain language as we can, the change--what has changed in the bill.

**MR. MELGAR:** Okay. Okay. All right, well, thank you gentlemen for your time. I really appreciate it.

**MR. BERGERON:** Thank you.

**MR. MADZELAN:** Thank you.

**MR. BERGERON:** Jesse, Harold has reminded us of another resource, the Congressional Research Service, which is a body in Congress--has posted on their Web site, not ours, on September 8th, a summary of the bill--Congressional Research Service.

**MR. MELGAR:** Thank you.

**MR. BERGERON:** Thank you, Harold.

Thank you, Jesse.

**[Recess.]**

**MR. BERGERON:** It is now 4:00 and we will be adjourning this hearing. Our next hearing will be in Washington, D.C. on October 8th. Thank you all for coming.

**[Whereupon, at 4:00 p.m., the hearing was adjourned.]**