

U.S. DEPARTMENT OF EDUCATION
OFFICE OF POSTSECONDARY EDUCATION

**PUBLIC REGIONAL HEARING ON
NEGOTIATED RULEMAKING**

Wednesday, October 15, 2008
9:00 a.m. - 3:02 p.m.

Cuyahoga Community College
Corporate College
East 4400 Richmond Road
Warrensville Heights, Ohio

P R O C E E D I N G S

MR. MADZELAN: Good morning, everyone. Welcome to this sixth and final hearing that we have scheduled and we have had here at the Department of Education here to get information from the community, you people, about what we need to do in terms of regulatory activity, a regulatory agenda, to implement the reauthorization of the Higher Education Opportunity Act.

The first thing I want to do, though, is thank Claire Rosacco and her team here at Cuyahoga for agreeing to host this event and providing us with what I'd have to say is kind of an "ace-one" meeting space here. As I mentioned, this is the sixth in our series of hearings. We published a notice back in the first part of September in the Federal Register announcing these meetings, indicating the requirements, essentially, that we have under the Higher Education Act which is to engage in a process of rulemaking by negotiation for the programs authorized by Title IV of the Higher Ed Act, which are the student financial assistance programs.

Part of our charge--as part of this negotiated rulemaking process is to gather information from affected parties, interested parties, regulated parties, which, of course, for us in this area are students, colleges, universities, other postsecondary education providers, lenders, banks, guarantee agencies, servicers for the loan program, et cetera. And again, that is the purpose of these hearings, is to gather that kind of information, and what the affected community thinks the Department ought to pursue in a rulemaking process. When--as I mentioned, this is the last of our series over the next few weeks. We have already begun to assemble that which we have heard, at the staff level. We will develop a series of recommendations for consideration by our policy officials. That's going to take us another couple of weeks, and that's going to take us into the first part of November.

Our plan--you're looking at a couple of people up here that are career employees. You know, we're going to continue doing this, irrespective of our leadership. The question is, at what time will we do that? Again, we have a plan to move forward with this process this fall and winter. But that could change within the next couple of weeks. We have, again--those that you see before you today, we've been through a number of these transition periods, and sometimes they are pretty smooth, and for us, in the Education Department, and sometimes a little bit less so.

So, at any rate, we have a process in mind, and--which we will pursue, unless our political officers ask us to hold off for a while. If we hold off for a while, basically, it means a two-month delay in the process, and we are still nonetheless faced with other statutory deadlines around promulgating final rules, a master calendar, and that sort of thing. Joining me here today from the Department, my colleague Gail McLarnon, from the Office of Postsecondary Education. And also helping out now standing at attention in the back of the room is Marty Guthrie, also from the Office of Postsecondary Education. So, these--I guess the last thing--well, next to last thing that I want to mention, is that this--our hearing today is being webcast live by the college here. So, I hope that does not mean that some people who have signed up to speak will now choose not to speak. But again, just so you are aware of that fact.

We do have, as you know, the sign-up sheet in the back of the room. We will go in the order that you have signed up. You should be aware that, even though we have these ten-minute intervals, it has been our experience that not everyone uses the full ten minutes. So, we'll--the morning may sort of speed up a little bit. We do have a break scheduled at 10:30, I believe, and then break for lunch at noon. Again, those are not hard and fast. We're going to try and be as flexible as we can, because we are primarily interested in what you people, the community, has to say. We are really not here to answer questions. That doesn't mean we won't answer questions, but primarily we are in listening mode here. We want to hear what you have to say, what you think is important, and what you think we need to do over the next several months in terms of producing a--beginning a regulatory process with an eye towards publishing a final rule next November 1st--next, next November 1st, November 1, 2009. So, with that, I will ask my colleague Gail if she has anything to add or...

MS. McLARNON: Just another big thank you to Claire Rosacco and Cuyahoga Community College staff for such lovely accommodations. We're not really used to this high-tech setting and we're very appreciative. We're very, also, appreciative of the turnout here today. We're almost approaching what looks like a full schedule, and that's wonderful because, as Danny said, it's very important for us to hear what the community has to say. It informs our rulemaking process to a great degree, and Danny and I have been through lots of rulemakings together.

And so, again, I would like to welcome all of you. Thank you for coming and thank the Cuyahoga Community College staff for putting together such a wonderful facility for us.

MR. MADZELAN: So, we will start this morning with Nancy Hoover. And Nancy, if you and others who follow you can, when you get to the podium, again, state your name for the record and where you're from, who you represent. And also, it will be inevitable that we will butcher someone's name. I'm a little bit used to that, but please correct us when you come to the podium.

MS. HOOVER: Thank you. I'm Nancy Hoover. I'm the Director of Financial Aid at Denison University, a private liberal arts college here in Ohio.

I'm also representing the National Direct Student Loan Coalition, which is, as I indicated in my statement--is a grassroots organization that supports the Direct Loan Program. First of all, I want to express my appreciation to the Secretary for the opportunity to present comments to the Department of Education on several points of concern with the Higher Education Opportunity Act.

It is crucial that practicing financial aid professionals be allowed to provide input on legislation that can both provide or hinder our students from having access to a college degree. As I indicated in my opening statement, I am the Director of Financial Aid at Denison University. And today, though, I will be speaking on behalf of the National Direct Student Loan Coalition. This is a grassroots organization that represents over 1,300 schools throughout the Nation that participate in the Federal Direct Loan Program. The mission of the Coalition is to ensure the success of the Federal Direct Student Loan Program by promoting its benefits for students, families, taxpayers, and institutions. The National Direct Loan Student Coalition is comprised of practicing financial aid administrators from all types of colleges and universities. Therefore, this testimony will address several areas of concern in the Higher Education Opportunity Act that are beyond the student loan area. It is crucial that you hear thoughtful commentary from administrators at all types of schools who can offer recommendations for crafting of the final rules that ensure program integrity without preventing access for students to all sources of funding for their college education.

The areas of concern that I wish to address:

Point one, in the Federal Direct Student Loan Program, the new provisions introduced by HEOA that require DL schools and the DL servicer to comply with each requirement listed under Section 433 of the HEA that apply

to the FFELP lender. The Coalition clearly supports all of the disclosures that are required for student loans in both the DL Program and FFEL Program. The Coalition encourages the Department to adhere to the conferees' intent that loan servicers can maintain their current organizational structure of providing to students the disclosures that are in compliance with these new requirements.

Point two, new institutional disclosures on cost of tuition and fees. The model that the Department creates for schools to provide transparencies of cost in net price must be based on thoughtful consideration of comments from college administrators from all areas of institutions who are involved in developing the institution's pricing structure for tuition and fees. Any instrument developed to calculate the net price of college cost must incorporate the fact that universities do not utilize any uniform methodology or policy to award their respective institutional, need-based, and merit award aid in addition to the federal and state sources of aid.

Point three, additional new disclosures required by schools to current and prospective students. To effectively and efficiently collect all of the required disclosures, current and new, from schools the Department needs to develop a standard data collection instrument with an industry-standard file format that is compatible with the respective administrative computer systems currently used by colleges. The disclosure requirements could be created from data within the school's respective systems, and exported from the schools to a data warehouse, similar to the common origination and disbursement system that is used by all schools that process federal aid. If the required disclosure information was collected in a standardized format, it could be programmed to update more efficiently the websites to provide public consumer information about colleges and universities. This project should have at least three years to be developed to streamline and standardize this massive data collection for both the Department of Education and the universities.

Point four, private student loans. Thorough negotiation is crucial to develop for students of private loan disclosure process that is not confusing and cumbersome. The final rules must provide schools flexibility in generating and providing the new disclosure form to students who are applying for private loans. The intent of this process must always focus on informing students about their eligibility for other aid rather than become an obstacle in the application process because of possible processing delays.

Thank you again for the opportunity to provide comments on the Higher Education Opportunity Act at today's hearing at Cuyahoga Community College on

behalf of the National Direct Student Loan Coalition. Our organization is committed to helping students have access to affordable college degrees. The Coalition looks forward to working with the Department to finalize the best rules and regulations for all of the federal financial aid programs so that students will not be thwarted in their efforts to achieve their dream of a college degree.

Thank you.

MS. McLARNON: Thank you.

MR. MADZELAN: Thank you, Nancy.

Just to follow up one moment on my initial remarks, I should also mention, since Nancy has indicated her organization's willingness to help us out here, we think that we will have in this negotiated rulemaking process probably four separate committees, and that means we need a lot of non-federal negotiators to help us out. So, again, at some point this fall, we will publish another Federal Register Notice laying out sort of a more formal approach or a better structure of what we're thinking in terms of process, as well as solicitation of nominations for non-federal negotiators. So again, I hope that you and all of your friends and colleagues will give some thought to helping us out and volunteer to be non-federal negotiators.

Our next speaker is Greg Shields.

MR. SHIELDS: Good morning, ladies and gentlemen. My name is Greg Shields, Regional Director of Operations for National College, based in Roanoke, Virginia. On behalf of our approximately 10,000 students enrolled in 24 campuses located in central southeastern United States, including four campuses located here in Ohio, it is my pleasure to have this opportunity to speak to you this morning. We applaud the Department's efforts, under Secretary Spelling's leadership to advance the Higher Education Act to bring meaningful reform to higher education in our country. This morning, I would like to briefly discuss two very important issues that are currently facing the career college sector: 90/10 and proposed revisions to the method in which cohort default rates are calculated. These are just two of the many very important issues currently facing our sector that are included in the Higher Education Act.

Today, approximately 2.8 million college students are at risk unless immediate reforms to the 90/10 rules are enacted. This is a very difficult time for our students given the current economic climate and the continuing credit crisis that, in some instances, has brought the availability of credit to a grinding halt.

The elimination of numerous sources of private loans has created additional hardship for a number of our students who no longer have access to these lending sources. Many of our students must work to support their families while pursuing their dream of a college education. The reduction in access to these private loan sources has made it even more difficult for our sector to serve this population and placed greater pressure on our ability to meet the federal government's 90/10 tuition requirements. In the past, career colleges have been limited in the non-Title IV program's revenue that they can include in the 10 percent calculation. The HEA reform allows revenue from non-Title IV programs that have been approved by the state or an accrediting agency. Our programs offered here at our campuses in the State of Ohio do not require approval for each individual program, but rather these approvals are part of an overall institutional approval. We would prefer the Department adopt a rule that allows program revenues to be included, so long as such programs are considered part of an overall accreditation, or the programs do not otherwise require a specific state approval.

The HEA allows institutions to include the net present value of loans they themselves make to students between July 1, 2008 and June 30, 2012 in the 10 percent calculation. The Department needs to realize that career colleges initiate multiple class starts throughout the year. For instance, National College has eight class starts during our academic year. If the Department were to require that our member schools disburse funds on a class start basis, this would create unnecessary delays and frustration for our students, not to mention higher costs for administering this regulation. We would recommend that our institutions be allowed to provide a single loan at the beginning of the students' academic year, with the loan itself spread out over the institution's fiscal year. Should institutions be allowed payment deferments until after graduation, such deferments should likewise be allowed.

The second topic of importance that I would like to address today is the proposed revisions to the method in which cohort default rates are calculated. Career colleges, such as National College, provide an important role in educating a segment of our population that is underserved by traditional higher education. Many of our students tend to be first-generation college students. They work full-time to support their family and face numerous obstacles on a daily basis just to attend classes.

Given time, I could share with you numerous stories of students that were able to overcome these obstacles in order to graduate with their degree

and go on to start a successful career, not just another job. The law provides that, beginning with the Fiscal Year 2009 cohort default rates, the rates will be calculated for a three-year period, but it also provides that no sanctions may be imposed on an institution until three years of the three-year cohort default rates have been published. In the interim, the Department will have to publish both two-year and three-year rates for the Fiscal Year 2009 and Fiscal Year 2010. It will be important for institutions to be able to have access to the full range of appeals and corrections for both the two-year and three-year rates for both of these years. I appreciate the opportunity to share my comments with you today. Thank you.

MR. MADZELAN: Thank you, Greg.

Jill Noble.

MS. NOBLE: Good morning, and thank you for having me and giving me this opportunity to speak to you this morning.

We had two previous speakers who spoke of financial information and the need based on our economy and other things, but I'm here today as a representative from the American Council of the Blind, which is a consumer organization in this country for blind and visually-impaired individuals, and this relates to accessibility of educational materials. So, what I wanted to say is, is that the financial part is important, but also another part of the Higher Education Opportunity Act is accessible textbook materials--or instructional materials, I should say.

The American Council of the Blind would like to serve on the study commission as a member in order to provide their expertise in working with the language that should go into--become part of the legislation for accessible textbooks. They were very involved with the K-12 portion, which became a part of IDEA in 2004. They worked tirelessly with other blindness organizations and also with textbook publishers to come up with a standardized file format and repository for accessible textbooks and materials. And we would like to do this on the postsecondary education level. We have people who are very well versed in public policy as well as the technological background to provide their expertise on this commission. And we also have a great resource in our national affiliate, which is in the National Alliance of Blind Students. It's an affiliate of the American Council of the Blind, the national organization. And they also being primarily a group of college students could really assist with this part of the Higher Education Opportunity Act.

So, not only is there the financial part of this but there's also the part of actually having accessibility to educational materials. And it's-- like I said, it's a very important issue.

So, thank you very much for your time.

MR. MADZELAN: Thank you. One question, Jill. Since we're--the folks here from the Department, we're college, university, postsecondary education types, and we know a little bit about IDEA because there's--

MS. NOBLE: Right.

MR. MADZELAN: From time to time, the Higher Education Act and individuals in the IDEA touch each other. But I'm hearing from your testimony that, because of the work that you've done previously on the K-12 level, you think that a lot of that work would easily translate into--for discussion by, what I'm guessing, for you, would be a new audience here in postsecondary education.

MS. NOBLE: Yes, definitely. Well, and I--I mean, just from my own personal experience, there's a lot of differences in K-12 materials. We all know--a lot of us who have gone to college or are in college actually have-- know the expense of textbooks and how quickly they change, and the publishers come out with a new edition, things like that. It's a little bit different than the K through 12 portion, because the books, once they're produced or whatever, in a certain format--let's say, for example, a Braille book in elementary school can be used for several years before a new edition or a change comes about. In college, it's a lot different, and in college, there's a lot of subject material that is difficult to put in certain formats. But I think the whole idea of the file format being consistent and also the repository would really apply to this particular--to postsecondary education.

And there are a lot of materials, and especially with college textbooks because they're quite large, the materials would be--for example, a Braille chemistry book in college would be very difficult produce, but supplementary materials and other things like that would be a possibility. But standardization--I heard Nancy speak about that as far as providing information to students, websites being updated and a repository. And so, here, once again, we're repeating that in standardization of formats and a repository for accessible instructional materials as well.

MR. MADZELAN: Thank you.

MS. NOBLE: Thank you.

MR. MADZELAN: Our next speaker is Galen Graham.

MR. GRAHAM: Good morning. My name is Galen Graham, and I am a Regional Vice President and Columbus Metro President for DeVry University. Today, I come wearing many hats, representing, as I do, DeVry Incorporated, its schools, and all of its 80,000 students. On behalf of the university and its Keller Graduate School of Management, Chamberlain College of Nursing, Brost University, Apollo College, and the Western Career College, thanks for this opportunity to speak today.

DeVry is focused on creating value for students, for its employees, and for society at large. This means addressing the unmet needs of society by providing high-quality student-centered, career-oriented opportunities to thousands of students every year. We have a long and proud history of producing graduates who are prepared, highly skilled, and ready to hit the ground running with careers that meet today's workforce needs. So, creating value, especially for our students and our graduates is intrinsic to our culture and certainly guides everything that we do. So, it is with a great honor that I represent our institutions today. We applaud the United States Congress for reauthorizing the Higher Education Act through the passage of the Higher Education Opportunity Act.

DeVry is greatly encouraged by provisions that, among other things, enable dual enrollment at high school and college, that increase the maximum Pell Grant award while simultaneously providing for year-round Pell Grant eligibility, that expand professional judgment for financial aid administrators, that increased the annual and aggregate Perkins Loans limits, that reduce the number of payments required for rehabilitation of defaulted Perkins Loans, and that preserve Title IV eligibility for quality foreign medical schools, and expanded eligibility for market-funded foreign nursing schools. There's a good deal for us to be excited about, and we are an engaged participant in the negotiated rulemaking process. Our institutions at DeVry are diverse, much like higher education as a whole. We believe that this diversity is one of American higher education's great strengths. With this in mind, we encourage the Department to develop and refine regulations through community-wide involvement. We respectfully request the broad and diverse group of institutional representatives actively participate in the rulemaking process to discourage a one-size-fits-all approach.

Given some of the complex issues that are involved in the negotiated rulemaking, like balancing the absolute need for transparency and full disclosure while being mindful of the demands of institutional day-to-day operations, we believe that diverse institutional participation is essential.

I will be brief today since DeVry and its divisions have also submitted written testimony to the Department. I'd like to highlight just a few areas that are of special importance to us, namely year-round Pell, institutional loans, preferred lender lists, recourse loans, and retention rate disclosures. With respect to year-round Pell Grant, eligibility is essential for student access and affordability and positively impacting time to degree. We request that the Department give institutions the necessary flexibility to determine on a student-by-student basis which award year to use for crossover payment periods. Broad interpretation will provide the maximum benefit for these students. We are relieved by new provisions that treat select Stafford Loan distributions in excess of loan limits as non-Title IV revenue. However, because loans are divided into multiple disbursements across award years and vary according to academic progressions and other outside resources, many institutions are left in a quandary and unable to determine how to attribute the extra loan amounts. It's critical that schools be permitted flexibility to allocate funds on a student-by-student basis.

With respect to preferred lender lists, many provisions in the Higher Education Opportunity Act require institutions to have at least three unaffiliated lenders on an institution's preferred lender list. However, some institutions may be unable to find three unaffiliated lenders or may have a preferred lender cease making loans. We submit that the Secretary specifically address this issue in future regulations. We also ask that forthcoming regulations identify what constitutes a preferred lender list, allow for institutions to add a third lender should one cease making loans, and enable an institution to provide lender information unassociated with their preferred lender list. With respect to recourse loans, new provisions in the bill prohibit select interactions between private lenders and institutions. The manager's statement noted that legislative intent was not to prohibit recourse loans so long as institutions do not provide improper quid pro quo to a lender. We urge the regulatory language not place any further restrictions on recourse loans, as these loans are pivotal in affording educational access to so many students across higher education.

With respect to retention rate disclosures, public disclosures of first-time, first-generation student retention rates requires detailed attention concerning how the rates are calculated. Students who withdraw for reasons outside of an institution's control, including active military service, serious illness, or leave of absence, should be excluded from this calculation.

So, in conclusion, let me say that DeVry is looking forward to continuing to be a participant in this process. And on behalf our students and our institutions, I'd like to thank you for the opportunity to speak today. Thank you.

MR. MADZELAN: Thank you.

MS. McLARNON: Thanks.

MR. MADZELAN: Ralonda Ellis-Hill and Louis Milo [sic.].

MR. NIRO: Good morning. I'm also delighted to be here this morning and I also have multiple hats.

I am the Director of Educational Opportunity Program here at Cuyahoga Community College, but I'm also representing the state association known as the TRIO Association, also known as HAEOPP, or Higher Association of Educational Opportunity Program Personnel. That's a mouthful. That's why I developed an accent, by the way, because rambling all those acronyms--or because I've worked with TRIO for 35 years. A small story--I have to tell this story because it's interesting and has--I started at Cuyahoga Community College some 35 years ago, and within two or three years in the program, I received a call from Washington that I took on the program officer by the name of Linda Byrd-Johnson--was going to come and pay us a visit to review our programs. Well, I was very excited. Linda Byrd-Johnson was--this is the office of Cuyahoga Community College. So, I informed our institutions and we were prepared for this exciting visit.

To our surprise, this talented, intelligent, young professionally-looking African-American lady comes to our door and Linda Byrd-Johnson--but the story is, the same Linda Byrd-Johnson today, that Linda Byrd-Johnson, happens to head the national TRIO programs. It's one of the largest discretionary programs within the Department of Education. So, we are delighted that she's heading this program and I had the opportunity to work with her. She did find--provide us with some technical assistance, then, and she also told us that we were in compliance. So, one of the main--I'm really out of this regulatory--by the way, welcome on behalf of the TRIO programs, welcome on behalf of Cuyahoga Community College. I'm just going to give you a very brief overview. As I've been here for more than 35 years, I think I have this somewhat clownish way of presenting things.

And then my TRIO colleagues here will be presenting some specifics in relation to the negotiating rulemaking in relations to the new provisions within the regulations.

Again, I'm Louis Niro. I'm delighted to be here, and on behalf of the six TRIO programs here at Cuyahoga Community College--and we are serving more than 4,000 students at these institutions. And on behalf of the state TRIO association, I welcome you and thank you for this opportunity. The TRIO programs have been serving the Ohio's educational opportunity and throughout this country for over 40 years. And here at Cuyahoga Community College, we have had TRIO programs almost that long as well. Now, with the new legislation, we will be able to extend our services to a wider population. The provisions will make TRIO stronger, and we look forward to its implementations and to the final rulemaking hearings.

Some of the specifics that have--in the new provisions--I think are very meaningful to us, and I'll be mentioning some of them, and my colleagues will be talking more about the specifics later. The--which one of the provisions extends the--all TRIO grants from four years to five years. We've been really advocating for those for a number of years. It also increases the minimum of TRIO grants to \$200,000 per grant. It also, for the first time--it's very important for Cuyahoga Community College, because we have multiple branch campuses, as many other institutions throughout this country will have an opportunity to apply for TRIO grants for each campus, and we look forward to the next competitions of the Student Support Services, which we can apply for each of the three campuses. It also allows TRIO grantees to target student populations with particular needs--and this has been done in the past but this is--gives us a greater emphasis, for example, for students with limited English proficiency. Also, with--there's a greater emphasis with disabled populations, disabled students. And for the first time, I think, this is going to be very challenging for you, but also the TRIO community, they have added the homeless and the foster youth to be served by TRIO. So, that's going to be a very interesting and challenging format--process.

It also animates--it's especially important for me because I worked with veterans for a number of years. This also allows us to extend eligibility for veterans Upward Bound programs to include older veterans, and also for veterans who have served as reservists, and those who were called to action on or after September 11, 2001. There are many, many other provisions which I will not be able to go into, but some of my colleagues will talk to some of them. But I think once you go through this process, we hope that this will really improve the regulations and for us to implement within our applications and our daily activities at our institutions.

And this was a large segment of our county, our state, and our national community--will have the opportunity to become active, integrated, member of our economy. And that's really the ultimate goal, for them to become successful in their own lives. The new provisions will enable TRIO to better serve in a more comprehensive way our students. So, I wanted to thank you for this opportunity. And again, thank you for the time that you take and enjoy our campus and our weather that we have had in the past couple of weeks.

MS. McLARNON: You're welcome.

MS. ELLIS-HILL: Good morning. My name is Ralonda Ellis-Hill, and I currently work as an advisor at Cuyahoga Community College with the educational Talent Search Program.

Currently, our program serves 1,250 students throughout Cleveland, Ohio. And today, I am here to make a request that--for two things, in fact. I wanted to first request that, looking at the amendments that are included in this Higher Education Act, I would like to request that there be a reduction in the minimum number of students that a program is required to serve from the 600 minimum as it is stated in the HEA. Also, I would like to request an increase in the number of students--cost per students in order to meet these new mandates, specifically looking at new requirements such as a mandate to provide high-quality academic tutoring services to our students. That is something difficult to accomplish on a budget of approximately \$400 per student.

Currently, we do have other programs that are able to accomplish this, such as our Upward Bound Program, but they are working on a budget of about \$4,000 per student. So, for our program, it is--we are already stressed, having been level-funded for these past few years, and we are currently doing all we can to ensure that our students are important, but given the new mandates, I feel that these two requirements are essential. At this time, I have Ms. Amonica Davis, Director of our educational Talent Search Program who would like to add, too.

MS. DAVIS: Thank you. As stated in Section 402(b)1(B)--

MR. MADZELAN: Excuse me. Can you just, again, state your name, because we have--

MS. DAVIS: Okay. I'm sorry. As Ms. Hill stated, my name is Amonica Davis, Director of TRIO educational Talent Search at Cuyahoga Community College.

As stated in Section 402(b)1(B), the recommendation is to strike the language but to have the ability to complete such programs. It is very

important that that language remain. Talent Search was designed for students who possess the potential to succeed, who demonstrated educational talent, but due to the fact that they were low-income, first-generation, they did not enter postsecondary education because they lacked the motivation and the information necessary to access higher education, specifically, the availability of financial aid, in addition to the financial aid process, and the process of selecting, applying to, and entering college. Presently, our staff provides our students with the motivation and the information necessary to access, because we work with such a population. If the language changes relative to our population, it will become a very, very different program. So, we would like for you to take that into consideration.

Thank you.

MS. SZELTNER: Good morning. My name is Julie Szeltner. I am the Manager of Talent Search at Cleveland Scholarship Programs. Thank you for the opportunity to speak today.

I just want to add two points to what my colleagues have already mentioned. A lot of changes to Talent Search proposed in the Higher Education Opportunity Act, two more that would affect us greatly, and it's largely because of the number of students that we serve, a minimum of 600, is how it's now written, and the funding that we do receive--again, we receive approximately \$400 per student. By raising the standards to include new outcomes such as assuring that our students do complete a rigorous secondary school program. One point is the rigorous program is not always available to our students through our schools, and two, because of the students we serve, as Ms. Davis mentioned, they are not always prepared as we need them to be, by striking the issue that she mentioned--sometimes our students are not going to go to a four-year college but we need to prepare them for a two-year degree or a vocational school. Second point--additional--is that Talent Search would now be responsible to see that our students complete a postsecondary education. This, in effect, extends our services for at least four years beyond what we already have to track.

Currently, we send our students out after they are enrolled in a postsecondary institution, and we are not responsible for tracking them beyond that; this is a new provision.

Please consider all of these points, and I appreciate the time that you've given us.

MS. EAFFORD: Good morning. My name is Felisa Eafford. I am the Director of the Upward Bound Program here at Cuyahoga Community College, and came with

this team of individuals representing the Ohio TRIO programs, and I just wanted to make about three points regarding the annual performance reports and how that would affect our programs with the changes in the legislation. Annual performance reports are required for all of the TRIO programs, generally about 90 days after the end of the grant. They've been generally due in November and December. With the recent changes of the legislation, we are basically encouraging the Department to revise the reports as soon as possible, and to get them out to the project directors.

The annual reports--the data included in the annual reports show our program effectiveness by evaluating them. And so, with the new changes, our programs want to be able to accurately reflect the data that the Department is going to look at and then evaluate whether we are able to receive continual funding based on the data that we provide. So, with the changes in the legislation, they refer to some of the required services that our TRIO programs offer and also the permissible services and programs report the services that have been provided for the students. Therefore, as soon as the Department can make changes to these annual reports and get them out to the TRIO community, we will know exactly what data is required and what we are to report.

Just one additional comment I do want to make is that prior experience is calculated--is looking at the quality and effectiveness of how we administer our TRIO programs. And prior experience is calculated based on data that we report in the annual report. And due to the changes, now that Congress has defined prior experience as opposed to the Department of Education, we want to make sure that the TRIO community again knows how to accurately track the data that's being required so that the annual report data that we are going to be reporting on an annual basis not only reflects the agreed upon objectives of the grant, but also the prior experience criteria so that, as we apply for new grants, we are able to get all of the points that the projects have earned based on the quality of services they have provided for their program. And again, I thank you for giving me the opportunity to share with my colleagues regarding the changes in the legislation and how it would affect the TRIO programs.

MS. McLARNON: Thank you. Before we move on to the next speaker, could we ask that the three speakers that followed Ms. Ellis-Hill and Mr. Niro to please sign in at the front desk so we have your full names.

Thank you.

MR. MADZELAN: Yes. Thanks for your comments. Just real briefly. I can't remember the last time we actually regulated in the TRIO program. I think it was before 1994 or so, but what I do know is that we have not regulated in the TRIO program in sort of our negotiated rulemaking era. This will be a first time for the TRIO community as well as for us with this--well, I guess we have had a round of negotiated rulemaking with Gear Up. I was about to say that we've not done much negotiated rulemaking with our discretionary grant programs.

So, again, we appreciate all of your comments, and again look forward to the TRIO community's participation in our process as we move forward.

Karen Sarrasa [sic.]--please help me out.

MS. SARACUSA: Saracusa.

MR. MADZELAN: Okay.

MS. SARACUSA: Thank you.

Good morning. My name is Karen Saracusa. I'm the Director of the Office of Disability Support Services at Mt. Union College in Alliance, Ohio. And today, I'm here to speak on behalf of the Association on Higher Education and Disability.

Thank you for allowing me the opportunity to speak with you today. First, let me say that AHEAD fully supports the Higher Education Opportunity Act Reauthorization, which we believe will support the efforts of institutions of higher education and our core constituency to improve transition, support, and instructional services--services and instruction for all students with disabilities. With 77 percent of students with disabilities--I'm sorry, while 77 percent of students with disabilities hope to go to college, only 31 percent of students with disabilities actually attend. We are hopeful that these new regulations will increase the opportunities for all students with disabilities and thereby make higher education a reality for all. AHEAD is a professional membership organization of individuals involved in the development of policy and in the provision of quality services to meet the needs of persons with disabilities involved in all areas of higher education. At this time, it boasts more than 2,500 members throughout the United States and other countries.

AHEAD is fortunate to have formal partnerships with 30 regional affiliates and numerous other professional organizations working to advance equity in higher education for people with disabilities. AHEAD dynamically addresses current and emerging issues with respect to disability, education, and accessibility to achieve universal access. As such, it is actively

involved in all facets of promoting full and equal participation by individuals with disabilities in higher education and supporting the systems, institutions, professions, and professionals who attend to the fulfillment of this important mission. There are five key provisions that AHEAD wishes to address, and which impact higher education and disability in transformative ways. Point one, preparing general education teachers to more effectively educate students with disabilities. AHEAD supports a structured multi-sensory approach as outlined in 2000 by the National Reading Panel which highlighted the five pillars of literacy that are critical to essential reading skills.

To that end, AHEAD supports the use of research-based methodologies in determining the best approaches to instruction in reading and mathematics. The education of teachers traditionally takes place within the context of higher education, once philosophical and ideological approaches toward instruction disability and accommodation are formed within the context of teacher preparation programs and those teachers encountered in other academic classes. By modeling appropriate teaching techniques in teacher education programs or modeling best practices towards providing accessible educational courses in higher education, we can make great strides towards increasing consistency and teaching and equality of opportunity in education.

Also, a long-term benefit of the structured multi-sensory approach is a replicable methodology for young professionals to use and model. Point two, advisory commission on accessible instructional materials and postsecondary education for students with disabilities. AHEAD fully supports all efforts to make instructional materials in a timely and usable format accessible for all students with disabilities. This is particularly important to those students with print disabilities, as was outlined in the Wall Street Journal article from September 17, 2008, which chronicled the increasing numbers of students with learning disabilities entering postsecondary education and their needs for varying levels of alternatives to print.

AHEAD and its members have been important early leaders in the creation, development, and expansion of services to fill the void of alternatives to print such as Bookshare.org, and has encouraged recording for the blind and dyslexia's--efforts to provide its materials in a digital format. AHEAD member institutions have an obligation to ensure non-discrimination of all persons with disabilities in accordance with the language of the Americans with Disabilities Act, and the Rehabilitation Act of 1973.

Therefore, AHEAD feels that the current definitions as listed in the Higher Education Textbook Access Act of 2007 referring to print disability would exclude or not sufficiently encompass all people with disabilities who would participate in or benefit from the use of books in electronic format. The definition needs to be revised and updated so as not be based on the outdated NLSA definition, but on a definition that reflects today's scientific realities. As our campuses are beginning to deal with issues confronting returning servicemen and women, the need to be broader in our ability to understand and address disability-related impacts to reading and other academic tasks is essential.

AHEAD believes that an advisory commission will be able to examine a broad spectrum of materials and needs to encourage the common approaches and flexibility in format that will allow students to move between and within our educational systems. AHEAD stands ready to participate, consult, and assist in all such efforts. Point three, e-text clearinghouse model demonstration programs to support improved access to postsecondary instructional materials for students with print disabilities. Through its e-text initiative, a collaborative project involving its members, the students, and institutions they serve, publishers and numerous organizations, AHEAD has developed an understanding of stakeholder positions and current capacities. AHEAD supports the idea of a national clearinghouse for accessible text. AHEAD sees it as a necessary and efficient first step in the seamless provision of accessible digital text directly to students with print impairment. AHEAD fully supports the goal and intention of this legislation to improve timely, usable access to printed instructional materials for people with disabilities.

AHEAD realizes that, while this current section is not the final answer to issues of text accessibility, it clearly provides for a critical first step in attacking a significant barrier to equality for people with disabilities in higher education, including many with learning disabilities, physical mobility-related disabilities, and blindness and visual impairment. As higher education seeks to more fully include people with disabilities, legislation supporting that movement is tremendously important, and we applaud the committee's efforts in assisting to build systems that can lead to systematic change. The ultimate beneficiaries will be the hundreds of thousands of people with a varying array of disabilities who seek full and equal access to the benefits of higher education.

Point four, transition programs for students with intellectual disabilities into higher education. With authorization of a new program of

model demonstration projects to promote the successful transition of students with intellectual disabilities into higher education, clarification is necessary regarding appropriate accommodations institutions are to provide within existing courses, and the distinction between self-contained programs that may be non-degree granting. AHEAD is glad to be a partner in the collaborative discussions between interested groups that include parents, students, and secondary educators. A college experience, peer-appropriate activities, and preparation for becoming a member of society, the workforce, the community are part of a student's transition to independence.

AHEAD recognizes that these transition programs and grants, open enrollment, and the availability of federal financial aid may provide opportunities to some students previously unavailable. However, AHEAD believes that it is critical to identify educational options and expectations prior to assuming financial aid debt. Point five, data collection. Colleges will be asked to report the "percentage of undergraduate students enrolled at the institution who are formally registered with the office of disability services of the institution or the equivalent office as students with disabilities." The collection of data on students with disabilities has been inconsistent over time and across institutions. The lack of consistent data has hindered the evaluation of our progress toward inclusion, our identification of best practices, and our ability to predict future resource needs. AHEAD sees the simple headcount of students with disabilities seeking services or accommodations as an opportunity to develop an infrastructure for the collection of more meaningful data and the development of reliable models for service delivery and resource planning. We are pleased to see the addition of this provision, because students with disabilities, like all other minority populations on campuses, deserve to be included and counted.

Currently, there is no defined system or methodology in place to count college students with disabilities. Determining how this task will be accomplished is critical. Some of the issues that need to be considered are-- AHEAD recognizes the lack of a universal system in defining disabilities categorically. Effective collection of data will require a common nomenclature. AHEAD recognizes that the need to register with disability services offices varies based on the age and state of the building environment. The use of universal design and instruction and curricular programs and recency of disability status, such as may be the case with wounded veterans accessing benefits under the GI Bill. Based on this, we support the development of regulations that encourage a full and accurate

count of students with disabilities by using processes similar to collecting data on race, gender, and veteran status. AHEAD recognizes the importance of enrollment--numbers of students with disabilities, and supports a process that will help identify both students who have self-identified, as well as those students who make no formal request for accommodations.

AHEAD recognizes that a simple headcount of identified students with disabilities has limited utility, and encourages the Department to consider the long-term utility of tracking categories of disability or clusters of accommodation needs when developing regulations that will establish a foundation for future data-driven policy decisions. AHEAD feels that further clarification is needed in order for the data collection to be effective and meaningful. AHEAD would be happy to participate, consult, and assist in this discussion.

Thank you again for the opportunity to speak with you today and to share the views of the Association of Higher Education and Disability. We have submitted our written comments already. Thank you.

MR. MADZELAN: Thank you.

MS. McLARNON: Thank you.

MR. MADZELAN: Erin Redle.

DR. REDLE: Good morning. I am Dr. Erin Redle, and I'm a speech language pathologist at Cincinnati Children's Hospital Medical Center, and an Adjunct Faculty Member at the University of Cincinnati.

Thank you for the opportunity to share the perspective from speech language pathologists and audiologists on the issues of the Higher Education Opportunity Act impacting our profession. I'm here today representing the American Speech Language Hearing Association, or what we call ASHA. ASHA has over 130,000 members who specialize in treating speech, language, swallowing, and hearing disorders. There are three main areas this law will impact the fields of speech language pathology and audiology, including student loan forgiveness, accreditation, and inclusion of speech language pathologists, or what we call SLPs, and audiologists in funding for teacher preparation programs. There is a significant educational expense in becoming an SLP or an audiologist. For SLPs, the master's degree is the entry-level degree. In almost every program across the country, this requires six years of higher education.

In audiology, the clinical doctorate is now the entry-level degree, requiring seven to eight years of higher education. Unlike many fields where one can obtain a bachelor's degree and then seek assistance from an employer

in pursuing the master's degree, SLPs must have that degree to begin their professional career. My own personal student loan debt when I completed my master's program was over \$60,000. And from discussing this with some of my colleagues, this was not an abnormally high number. Both the additional educational expense and time have contributed to the existing shortage of speech pathologists across the country, and more significantly, the predicted shortage in the future.

The Bureau of Labor Statistics estimates that between 2004 and 2014, approximately 14,000 additional speech language pathologists and 3,000 additional audiologists are needed in the United States. Specifically, in Ohio, an informal study completed by Nada Calendar, the Director of the Ohio Master's Network Initiative Program in June of 2007 found that 116 unfilled school-based speech language pathology positions existed in 57 counties across this state. Student loan forgiveness programs would provide a necessary incentive to recruit SLPs to work in the educational setting. Traditionally, there are settings for SLPs with both higher salaries and better perks, but as the number of children with speech language and swallowing disorders continues to increase, we have a responsibility to recruit and retain highly qualified SLPs to ensure these children receive an appropriate education.

The second area I would like to address is accreditation. ASHA supports the current statutory requirements related to accreditation, and requests the Department of Education not consider accreditation as part of the negotiated rulemaking. The determination of student achievement should remain at the discretion of the individual institutions. ASHA has worked diligently with graduate programs across the country to ensure students acquire the necessary knowledge and skills to best serve individuals with speech language, swallowing, and hearing disorders.

And finally, ASHA requests the Department of Education include SLPs and audiologists among the service providers who are eligible for funds under professional preparation programs in Title II. This would offer another source of funding to both recruit and retain SLPs in the schools, as well as to offer the same training for all individuals of a student's educational team. Allowing states the flexibility to use funds for training SLPs and audiologists would benefit children in both regular education and special education.

Thank you for your time and consideration. ASHA looks forward to working with the Department on these matters. Do you have any questions for me?

MR. MADZELAN: No.

DR. REDLE: Okay. Thank you.

MS. McLARNON: Thank you.

MR. MADZELAN: Thank you. Marty Mehringer.

MR. MEHRINGER: Good morning. My name is Marty Mehringer. I am the Director of Student Financial Services at Indiana Business College, and I'm here to represent Indiana Business College this morning.

I would like to briefly discuss two points that have been briefly touched upon this morning, the first one the year-round Pell Grant.

At Indiana Business College, we operate on a quarterly basis, and we have four or five starts a year depending upon the program. In this scenario, the student could potentially earn one-and-a-half Pell Grants within a year, depending on which award year you attribute the crossover term. We would like to request that the Department interpret this provision to allow institutions the widest possible flexibility to determine on a student-by-student basis which award year to use for a crossover payment period to provide the maximum benefit for each individual student. The second point that I would like to discuss is the additional \$2,000 in unsub that was passed through the ACASLA act. The law provides that for loans disbursed from July 1st of 2008 to June 30th of 2011, an institution can treat as non-Title IV revenue the amount of Stafford Loan disbursed to a student that exceed the loan limits that existed prior to the ACASLA Act. The intent was to allow funds that otherwise would likely have been provided by private lenders but will now be provided under the authority of the increase in loan limits to count toward 90/10 compliance.

Some implementation opportunities arise. Because loans are divided into multiple disbursements, the question arises as to how the institution will attribute the extra loan amounts, especially in instances where some disbursements will cross over into the next fiscal year. The most sensible method for handling this would be to attribute the extra loan amount to each payment period in proportion to its relation to the amount of the Stafford Loan as it was initially packaged.

Schools should not be required to go back after the close of fiscal year and reattribute the loan to the regular Stafford Loan if the student subsequently drops out and does not receive the remaining disbursements.

Similarly, if a student drops out during the fiscal year and the funds are subject to the return of Title IV refund calculation, the amount of Stafford Loan repaid should proportionately attribute the extra and regular Stafford Loans for the purposes of the 90/10 calculation. I would like to thank the Secretary for the opportunity to present my views and comments this morning.

MR. MADZELAN: Thank you. Don Yearwood.

MR. YEARWOOD: Good morning. My name is Don Yearwood. I'm President of Carousel Beauty Colleges and the Spa Institute, and a member of the American Association of Cosmetology Schools, AACS, Board of Directors.

I want to begin by thanking the Department for convening these meetings seeking public comment and recommendations in the development of regulations implementing the Higher Education Opportunity Act of 2008. I am honored to be with you today and provide testimony on behalf of my institution, and also the entire AACS membership. I am very proud to announce, also, that Carousel Beauty Colleges and the Spa Institute, which was founded in 1959, in 2009, we're getting ready to celebrate our 50-year anniversary. So, we're very excited and proud of that. I provided at the registration desk a letter addressing all of our membership's regulatory priorities and recommendations, and I think you've got copies of those at the Panel.

My testimony will focus on three proprietary, specific areas where AACS was actively involved in the development of the legislation, and are looking forward to working with the Department as we enter the final critical phase of the most recent reauthorization of the Higher Education Act, implementing the provisions contained in HEOA.

The first area, year-round Pell. As the primary advocate on behalf of the proprietary institutions of higher education for the new year-round Federal Pell Grant Provision, AACS looks forward to working with the Department to ensure the regulations provide all students with the opportunity to complete their education and training in the shortest amount of time possible, enabling them to enter the workforce sooner while receiving access to all the Title IV grant funds they are eligible to receive. To this end, AACS requests that the Department agree to suspend implementation of and/or place a moratorium on the previously promulgated regulations regarding the period used to determining the awarding of Federal Pell Grants under the definition of prior minor year charges, which were never subjected to federal negotiated rulemaking. Specifically, review the effectiveness of requiring institutions to award and disburse Federal Pell Grants using payment periods, not academic year, in light of the new statute. Finally, include this issue

for deliberations as a specific part of the 2009 HEOA federal negotiated rulemaking process.

The second area, cohort default rates. AACCS suggests that the Department focus particular attention on the provisions in the statute requiring default prevention taskforces, reports to and technical assistance from the Department, and the earlier two-year regulatory relief appeal. These provisions call for more of a partnership between institutions and the Department, which we hope will result in increased understanding of the efforts undertaken by institutions to prevent student loan defaults.

Establish the interaction between the institution's default prevention taskforces, and the Department--not simply as a paper-shuffling exercise, but as a full and open line of communication, and a way to establish whether an institution should be held responsible for default rates exceeding the threshold, or if default rates are actually a reflection of external factors, such as the economic circumstances of the student population it serves, which are truly outside the institution's control. Finally, afford AACCS the opportunity to negotiate the outcome and resolution of this provision as a primary negotiator appointed to the federal negotiating team assigned to address this issue.

The third area, 90/10. In light of the most recent increases in student financial aid, we are particularly concerned about how the regulations will account for the \$2,000 increase in unsubsidized Federal Stafford Loans disbursed between July 1, 2008, and June 30, 2011, and how those loans will be tracked and counted as non-Title IV revenue. We recognize that the attribution of these funds as non-Title IV revenues for the purpose of 90/10 pose considerable problems as it relates to disbursements, refunds, and the appropriate allocation of funds in the calculation. We look forward to working with the Department and address these complicated issues both with the near-term and throughout the negotiated rulemaking process. AACCS also requests that the Department follow the statute closely and eliminate or modify those regulations in conflict with the statute. This would include the treatment of institutional loans through Fiscal Year 2012, tuition discounts counting non-Title IV eligible program tuition as revenue, and also including Section 529 accounts as revenue.

AACCS is concerned about how institutions with fiscal year ends just completed, September 30, those with calendar fiscal year ends soon to be completed, and their CPAs are to assess and attest to an institution's compliance with a new law which took effect upon enactment, August 14, 2008.

AACS recommends that the Department include a safe harbor provision in the soon-to-be published dear colleague letter ensuring the institutions that have made good faith effort to comply with the spirit and intent of the law are not sanctioned or penalized for inconsistencies in interpretation or reporting prior to the development and promulgation of the regulations. Provide AACS the opportunity to negotiate outcome and resolution of this provision as a primary negotiator, representing the interest of the largest block of institutions measuring programs and clock hours appointed to the federal negotiating team assigned to address these proprietary, specific eligibility issues.

Thank you for allowing me to present these concerns to you. AACS looks forward to submitting nominations to serve on the federal negotiating committee assigned to implement the provisions we worked closely with Congress to enact. Thank you very much.

MR. MADZELAN: Thank you. Tom Siu.

MR. SIU: Ms. McLarnon, Mr. Madzelan, I am Tom Siu, Chief Information Security Officer at Case Western Reserve University in Cleveland Ohio.

Thank you for the opportunity to testify today. I'm going to discuss the provisions of HR 4137, which address peer-to-peer file sharing issues.

By the way of background, I am an information and network security professional, with applicable experience in the private sector, the federal sector, and in higher education. Case Western Reserve University is a private research university, enrolling approximately 10,000 students with 4,000 undergraduates, 6,000 in graduate and professional students. The majority of our undergraduates reside on campus, and our graduate and professional students are enrolled in our medical, dental, law, nursing, management, social work, engineering, and arts and sciences colleges. Our Fiscal Year 2008 externally-sponsored research was approximately \$375 million. We have approximately 20,000 network users. My testimony will address three issues: What "effectively combat" means, technology deterrence, the customer relationship model in higher education's mission. The first is focused on Section 488 of HR 4137, specifically related to the term "effectively combat," which is ambiguous and requires some clarification. Based on my experience as the Chief Information Security Officer at the university, I recommend a simply, five-level approach drawn from the National Institute of Standards and Technology security program maturity levels. To define effectively combat, these include, level one, written policies in place, level two, procedures in place, level three, implementation of procedures,

level four, compliance testing, and level five, integration into university operations.

I would like to provide an example of the ways in which the university has been addressing issues related to P2P systems for several years. Our effectiveness is, in part, the result of experiences learned from the student judicial process. Those experiences have shown us that measures of effectiveness should be pertinent to the matter and appropriate to the context of the university; for example, residential universities versus non-residential. Globally, the number of notifications is an ineffective measure in this capacity, because locally the universities experienced fully 20 percent of all the copyright infringement claims that we receive are unverifiable and invalid. We suggest a self-reported maturity level as a simple, qualitative measure. As a research university, we have a technology infrastructure, and a program that pretty much meets level five, but other colleges may not be at that same level.

The second item I will address focuses on Section 488 and 493, which both emphasize specific technology-based deterrents, and alternatives to illegal file sharing. The legislative language assumes a static picture of the issue of copyright violations. In our experience of security risk management at the university, the IT role has flattened during the past few years. Each measure taken to inhibit one behavior elicits a market response with new products that circumvent each measure. This cat-and-mouse game is similar to the vulnerability management and antivirus problems that IT uses experience daily. These risks are constantly present and, in some cases manifest as problems. On the issue of legal alternatives, we advocate a marketplace approach, services such as iTunes, to fill a market need. I recommend the Department abstain from rulemaking that drives colleges and universities to picking a market winner in terms of technical deterrence or alternative services. Additionally, I recommend a reporting solution to the Department by creating a small council of college and university chief information security officers in concert with the American Council of Education, the Association of American Universities, and Educause.

The council would participate in a negotiated rulemaking process and develop an annual report to Congress with empirical information on the operational status of the P2P networking and copyright infringement issues.

The third issue I will discuss is the engagement of students through the customer service relationship of a university with its students and user populations. The university's mission is to provide its customers with an

environment conducive to preeminent research, education, and the advancement of creative endeavor. Much of the research conducted at our university capitalizes on the efficiencies provided by P2P technology. The fulfillment of the educational mission may also include the character development of the future leaders of the Nation, and through responsible governance, we have an imperative for responsible behavior of individuals. The rules established need to resonate with the primary mission of the universities in educating and encouraging responsible behavior and avoid creating an adversarial relationship with our customer.

In conclusion, the university fully supports the enforcement of copyright law. We believe an effective strategy for addressing the issue is through a five-level security measure. The rulemaking on technology and alternative services should defer to market forces, and we need the flexibility to address responsible governance through our relationships with our customers.

Ms. McLarnon and Ms. Madzelan, thank you for the opportunity to testify today on P2P file sharing issues. I'm prepared to answer any questions, if you have any.

MR. MADZELAN: Any questions? Thank you very much.

MS. McLARNON: Thank you.

MR. MADZELAN: John Shop [sic].

MR. SCHUPP: Thank you for having me this morning. I appreciate it. My name is John Schupp from Cleveland State University--that's okay, the name is often mispronounced. I represent the SERV Program at Cleveland State University. It stands for Supportive Education for the Returning Veteran.

I created this program in 2006 to address the needs of the veterans on campus. It wasn't started from the top down; I had to work from the bottom up. And what I did was I went to the VA (Veterans Administration) and met with veterans from the Vietnam, the Persian Gulf I era, and asked them, when they were on campus back then, what did they wish they had available to them? Why did they drop out? The usage rate of the GI Bill, and I got this from different sources--the usage rate, the complete usage rate, is less than eight percent, meaning they don't graduate, and there's reasons why they don't graduate, and that's what I found out. When I listened to the vets from Vietnam and Persian Gulf I they gave me many reasons for it, but the top five are the ones that I use to address the SERV Program.

The first one is that first day on campus. I walk them through the registrars, the "bursars," the cashiers, the admissions process--I walk them

through personally, because when they get out of the military, they don't know where to go, and they walk on campus and the first thing they see is they see someone behind a desk and they say, "I want to go to school," and they say, "Oh, you're in the wrong building. You want to go over there, then you go over, then back over there, then come back here." Well, they're home by that time. So, I address that personal walkthrough.

The second issue is we have classes set aside just for vets. The Gen Ed classes, English 101, Math 101, and so on--and what I have found--we've been doing this now since fall of '07--spring of '08 was when it was enacted. What I have found is when they are among themselves, they have the camaraderie that they had when they were in the military. They are succeeding because of that. When I talked to the Vietnam vets they told me that, "John, we're not stupid; we just couldn't concentrate. That was our problem." And if you can't concentrate, and you can't remember, you can't pass the exam, and then you fail the class. So, what I did was is I thought, if I can create an environment for them that they can relax in and concentrate, perhaps they could pass, and this is what has happened.

When I had my first set of classes--and I teach chemistry there--when I had my first set of classes, I had 14 students in it. I gave out the first exam and I was concerned about how they were going to react to it. I gave out the first exam, it was chemistry, it wasn't easy--it wasn't like "fill in the blank and circle this." They took it--they had an hour to take it, they were fine, they got up, handed the exam in, didn't have any problems. I graded it on a higher average than my civilians. So, then I asked them the question the next day. I said, "When you walk into a classroom full of civilians, a hundred or so, in a Gen Ed class--a hundred civilians--does this go through your mind: 'Okay. I've got civilians in here. I've got people in here I may try to protect, people who may try to attack me, I've got to find the exits, I've got to see what I have to do, if I hear a noise, what's wrong with that noise, why am I thinking this way--what's question one?'"

That's what goes through their mind. They are trained to protect civilians and trained to protect themselves, and when they walk into a room full of civilians, that's what they have to do. If a civilian walks into a classroom for a test, "What's question one?" I went back and talked to the VA and talked to the vets, they all said, "Absolutely, that's what we go through." Now, put them in a room full of vets. They walk in, it's all military. "I don't have to worry about it. I don't have to protect them and

they're not going to try to kill me. What's question one?" That's why it works.

So, what we're doing at CSU and then Section T of the Higher Ed Act, which I appropriate the DOE putting together--what we're doing is we're creating a comfortable environment for them to learn to concentrate, remember, take exams, get confidence, so that, in the next semester--now, we offer four classes the first semester--12 credit hours for full-time accreditation, full-time benefits, and then the next semester we only offer nine so that they have to take another class in civilian world, just so that they can get used to going into civilian. The third semester, then, is going to be six credits in SERV and six credits in civilian. This way, they take baby steps back into civilian world. It helps in the transition. The third item that I've implemented is bringing the VA to the campus. These people have questions, they have concerns, they have issues that an academic world really can't answer, and I don't want to have academics involved in that.

The VA are the experts. Bring them in. Have an office. They're there for them all the time, one day a week, one day a month, whatever. With the new GI Bill being implemented August 1, 2009, just to give you some numbers--if 70 percent--got to make sure I get this right--if 70 percent of the 1.7 million deployed vets since 9/11 attend community colleges, the cost of living allowance, the \$950 just to go to school, above and beyond tuition and books--the cost of living allowance would be \$20.5 billion going into the communities and towns of that college. If 40 percent transferred then to universities and continued on--these are not big numbers, now. 40 percent transferred, you're looking at \$16.4 billion going into the towns, just for these guys and women to live, buying food, cars, whatever.

Now, the personal impact of the veteran is tremendous. The transition that's occurring right now is remarkable. They will be able to talk about their experiences before class starts. They're able to discuss what they saw, what they felt, what they heard, and then English starts, and they have English. Then they talk about it again for ten minutes and then math starts. And what I'm seeing that's occurring is it's easier for them to talk about their past experiences when they're immediately focused on their future. That's what I see happening right now. And they're also getting used to the civilian world slowly while they still have their comfort zone with their group in their class. Lastly, I would encourage the Nation's universities and community colleges to take advantage of Section T in the Higher Ed Act. It provides funding for the same kind of program I have at CSU. When I developed

it--and I worked with Senator Brown to create this Bill--when I developed it, I knew that the university would have a tough time trying to come up with the money to get this program going. That's why I did it, and that's why I'm so pleased that it's in the Higher Ed Act. I'm so excited for these vets when they come back because they need to have the universities and community colleges at their disposal. I feel that, with the widespread use of Section T in the Higher Ed Bill, we can make this generation the next Great Generation.

Thank you for your time.

MR. MADZELAN: Thank you.

MS. McLARNON: Thank you.

MR. MADZELAN: Well, we will take a break now for about ten minutes, and then we will reconvene at about 10:40. Thank you.

[Brief Recess.]

MR. MADZELAN: We're going to reconvene. And our speaker is Dave LaRue.

MR. LaRUE: My name is Dave LaRue. I represent Akron Institute of Herzing College. Akron Institute has been an institution in northeast Ohio since 1970. The Herzing College System has been in existence since 1965.

My personal experience: I've had 29 years in proprietary education, 19 of those was with ITT, the last 10 years have been with Akron Institute. Through these committee hearings, you will here testimony again, later on today, throughout the day, as well as in the previous hearings from both public, private, and proprietary schools. All three venues have a purpose in serving the community of students wanting postsecondary education. The access to Title IV funds, the rules and regulations through the Higher Education Act apply to all of these institutions, but not necessarily equally. In the 29 years I've seen regulations been passed and gone away, new ones revised, new ones modified, and they don't always equally treat all of the participants in the programs. What I would ask in this testimony today is that, through these hearings, through the committee work, that all three levels, proprietary, private, and public institutions be given the opportunity to not only present information, but also be members of the committees as represented earlier this morning and allow for participation from all of these organizations.

Not all students that seek further education, postsecondary education, are geared towards traditional schools. Career schools are necessary for those people, again, through previous testimony today--those students that don't have the desire or the need to go to traditional schools. It is our job

as a career school to provide that opportunity, and we have to have equal footing with other institutions to provide that opportunity. In particular, all schools should be required to have the same disclosures through accrediting agencies that have to be approved periodically through the Department of Education. Those accrediting agencies have safeguards to prevent violations of those rules and regulations.

States have their own rules and regulations governing the opportunities to education to postsecondary. Those regulations are reviewed, are monitored, the accrediting agencies are required to review and monitor the operations of the schools. They should be equally responsible at all levels, public, private, and proprietary. One of the things that it was asked that we present during testimony is in reporting of disclosure of retention rates within a school. We have a clientele that--we have allied health programs, primarily--probably about 85 percent of our student population is female. We have students that become pregnant and have to stop their education. They are not dropping out, they are stopping their education for a short time. They plan--we ask them to sign a plan saying that they are intending to come back, assuming that all procedures and everything occur as expected. Those students do not count to benefit our drop rate. Those students are counted as a drop, but they do not readily fall back into place as part of the retention rate.

Another disclosure, and again, previously stated in testimony, is the template or a standard of reporting. Another area of reporting is employment rates. Career schools are measured by the employability of their students. As a general term associated with it, their outcomes. The outcome of their education is, are they doing what they've been trained to do. Education is vital. Education is important. But what they do with that education upon completion is the most critical item. The last thing I'd like to identify, because Herzing College does also have an online campus, and one of the discussions in the regulations is the distance education verification. There are means in which that can be monitored, but as mentioned previously, just like with spyware and viruses, every time somebody comes up with a new plan, there's always somebody to come up with a plan to go against that plan.

No matter what verification, no matter what method is used, there's always going to be a way in which someone will be able to abuse, not use, the system. I would ask the Department, in consideration of rules and regulations concerning distance education verification look at the financial as well as the practical aspect of doing the verification. One of the suggestions was utilization of a PIN number. The Department of Education currently uses PIN

numbers for the students for financial aid to be able to go in and look at their FAFSA, make adjustments to their FAFSA, and so forth. There is no verification just because somebody has a four-, five-, or six-digit PIN-- there is no verification that the person actually entering that PIN is the one that is looking at that screen. There is also no verification that the person entering the PIN, although it may be their PIN and they are actually entering it in, there is no verification or clarification that that is the individual actually doing the work at the time whether it be through an educational course, whether it be filling out forms, or whatever the case may be.

We all hear everyday about identity theft. People may be able to get identities of people, use their PINs, use their access, unbeknownst to the person, or known to the person for the intent of doing better than what they necessarily are qualified to do. Again, I would like to thank the opportunity of the Department of Ed to present this testimony. I would also encourage the Department to allow proprietary schools equal access to the rulemaking process so that we can provide the education that we have provided for so many years, an effective education.

Thank you.

MR. MADZELAN: Thank you. Nick York.

MR. YORK: Good morning. My name is Nick York. I'm a Partner with the law firm of Tucker, Ellis, and West, and I'm here today representing the Recording Industry Association of America, or RIAA.

For the past few weeks, you have heard from representatives of both the entertainment and education communities, all of whom have provided you with examples of effective solutions and arguments for flexible regulations. I won't spend time rehashing all the details, but I would like to take this opportunity to sum up the importance of the file sharing provisions in the HEOA and the ways in which administrators can best follow their guidelines to their schools own benefit.

The requirements of Section 488 of the HEOA highlight the fundamental importance of alerting students to the hazards and penalties of illegal file sharing. As others have mentioned, most schools by now include at least a basic explanation of these issues in their acceptable use policies, but again, it is the clarity and the accessibility of these policies that determine their effectiveness. Including such policies in orientation materials with periodic and thorough reminders is essential. And finally, enforcement of such policies must be swift and meaningful.

As policies are only as good as their enforcement, schools should implement consequential punishment schemes and impose penalties upon students who violate stated policies. Section 493's discussion of adoption of legitimate services reflects the widespread understanding of the effectiveness of such a step. In fact, according to a new Educause survey, 15 percent of U.S. schools already offer some type of campus-sponsored music or movie download services, and another 17 percent have plans to or are considering implementing them.

For years, the entertainment industry heard individuals, including students, excuse online theft because they didn't have an alternative to acquire their content online, but today there are countless opportunities for people to get their music online, from download services like iTunes and Amazon to subscription services like Rhapsody. If universities can wean their students off of abusing the schools' networks by adopting and offering a legal alternative, it just makes sense to do so, particularly if that service is free to both the students and the school. Finally, we have heard much about Section 493's requirement that schools develop plans to address this illegal activity, including through the use of technology-based deterrents. We have heard about the significant cost savings such technology can provide, and the security and network integrity offered by adoption of these solutions.

Of course, we've also heard the requests for flexibility in their implementation, and we agree with this call for flexibility, as different schools have different network sizes and architectures. The fact is that technologies that many of us have been discussing including Audible Magic and Red Lambda provide administrators with considerable flexibility in their configuration. These solutions are not one-size-fits-all. They account for schools' unique situation and provide reasonable and appropriate solutions, including the limiting of their use to residents--hall networks, where a large portion of the infringement occurs. And of course, these businesses want to work with schools. The more flexible they are, the more schools will be willing to implement them, and we hope that the Department will encourage schools to contact these providers and find solutions, truly effective solutions, for their own networks. Again, we thank the Department for holding these hearings, and allowing us to provide you with information on how schools can best perform the provisions outlined in the HEOA. We hope the Department will continue to include representatives of the entertainment and content industries to provide ongoing assistance in the rulemaking process.

Thank you very much.

MR. MADZELAN: Thank you. Todd Jones.

MR. JONES: Good morning. My name is C. Todd Jones, and I'm President and General Counsel of the Association of Independent Colleges and Universities of Ohio.

AICUO represents independent, nonprofit colleges and universities in our state, ranging in size from 130 students at the Art Academy of Cincinnati, to 10,000 at the University of Dayton.

Our members graduated over one-third of the state's baccalaureate degree recipients last year, and award degrees from the associate to doctoral levels. Our institutions include dozens of liberal arts colleges and faith-based institutions, a historically Black college, major research institutions, professional graduate programs, single-purpose colleges for the arts, nursing, and medicine, and institutions with major online presences. AICUO thanks the Department for holding these meetings here to gain an understanding of the interested public's view about HEOA. AICUO was supportive of efforts to reauthorize the Higher Education Act, in part because the law has many helpful elements, and because it's been years since a reauthorization has moved through the legislative process. At the same time, we have serious concerns about the burdens, the provisions the law will pose on our member institutions. To that end, our comments will focus on three areas: general comments on the law, reporting requirements, and regulatory process.

Through its elective representatives and the President, the people have spoken, HEOA represents compromises and consensus on areas of major federal interest. The regulatory process that follows should address the practical limitation of those issues. While every administration and federal agency stands behind the principle that the law is the law, and there are always cases of principle being discarded in the breach. "Shall" has been read to mean "may." Advisory panels have been stacked to preclude views opposed by the current administration, and rulemaking practices have been stretched beyond limit to achieve particular ends.

Our association strongly recommends that the U.S. Department of Education reflect on its experiences in rulemaking over the past four decades, and reaffirm its interest in being stewards of the will of the elected legislature, re-embracing the role of practical--administrator should be a paramount concern as the law is implemented. Secondly, on reporting requirements. There's no question that Congress has asked the American higher

education institutions to hold themselves publicly accountable through government reporting mechanisms. Arguments for other means, both more and less burdensome and intrusive were rejected through the interest-balancing process of legislative democracy. But now that Congress has spoken, the U.S. Department of Education retains the responsibility of implementing what was passed in the least burdensome manner that still meets the agency's responsibilities under the law. To that end, AICUO offers several principles to improve the implementation of Ed's reporting responsibilities.

First, use existing mechanisms whenever possible. While there are many new reporting obligations in HEOA, there is little requiring that new systems of collection be developed. We recommend that, whenever possible, Ed use existing means of collection. Use IPED's definitions whenever possible. Consolidate reporting requirements together. Use existing public reporting and dissemination systems, even if they are privately held. To put meaning to that last example, when the Department has the choice between collecting and publishing information about colleges or simply requiring a college to publish information on its own website, the latter option should always be viewed as preferable. Not only is it more likely the information will be consumed by people interested in that institution, but the cost of doing so will be less, and the likelihood of it being revised in a timely manner will be increased. Similarly, non-governmental efforts offer ED the opportunities to identify best practices.

For example, the Department is to be commended in turning COOL into college navigator, a significantly more appealing design, yet both pale in comparison to U-CAN, a simplified effort developed by the National Association of Independent Colleges and Universities. U-CAN leverages colleges' own websites and creates a more functional repository for policymaker information. ED should capitalize on these successful ideas instead of offering pale imitations by deferring to such non-federal public sector resources whenever possible.

The concise design of U-CAN itself highlights another core concept: less is more. It is simply not possible to underestimate the real impact of regulatory burden on small colleges. Most of my 51 members do not have a full-time institutional researcher, and any new reporting requirements are going to fall on staff who have other existing responsibilities. The concern is valid and will result in real increased tuition costs to students. Our smallest institution has 130 full-time equivalent head count. Every simplified financial aid application, every unduplicated reporting

requirement, every day saved in professional development about how to report to the U.S. Department of Ed is meaningful for that institution. For an institution of that size, reporting is done by professors themselves, and administrators who also teach. Every hour you save means actual educational value for students.

Third, embrace flexibility. Just as institutions and states differ in form and function, so too they differ in relevance to policy issues and regulatory implementation. At times, ED elevates the need for perfect uniformity above flexibility. For example, the Department continues to wrestle with efforts to align public and private college accounting data even though the professional standards for reporting that data differ substantially. ED compounds the error by assuming what has been reported actually reflects what is happening at different institutions, when instead the need for perfect alignment has created data that no one honestly believes is similar.

In a break from the past, ED should seriously consider with every reporting requirement whether the form or content of data reporting should vary by institution's size, type, or form, for example, public, independent, and for-profit colleges. In nearly every area, ED has the authority to make these kinds of distinctions but chooses not to do so because, a, establishing an appropriate justification for a distinction is difficult as setting a standard for the distinction itself and, b, the desire for uniformity is a powerful administrative motivator. AICUO recommends that ED embrace this challenge and review every rule for the opportunity to be flexible in the implementation of rules across type of institutions.

Fourth, provide interim guidance. Thoughtful regulation takes time, but many of the provisions of this Bill took effect immediately upon President Bush's signature. While the Association understands that ED shares the college community's burden of implementing the law in this manner, it is only the colleges, and ultimately their students through tuition costs and lost services, who will be penalized for actions that are only judged in hindsight as failures to comply, and for whom errors in guidance lead to higher costs and lost opportunities. The interaction between the provisions in Title IV, which is subject to negotiated rulemaking and Title I, which is not, are murky at best. Ed should offer interim guidance and do so with the greatest of care. Though I shudder to think it, negotiated rulemaking and the arrival of a new administration could mean these provisions are in place for a long

time. We strongly encourage you to exercise the greatest care in creating that guidance.

Lastly as to the regulatory process. For regulatory process, AICUO makes recommendations in two areas. First, speaking as one who has significant, high-level, recent experience with the development of advisory panels in the U.S. Department of Education, on behalf of AICUO, I most strongly recommend that ED attempt to identify negotiators for the rulemaking process that represent a consensus of constituent communities about whom would be an appropriate negotiator. Nominating individuals that meet statutory requirements but who are selected for their personal willingness to meet particular policy ends sought by senior officials is not an acceptable means of implementing proposed--implementing negotiated rulemaking provisions. We recommend that the Department pick negotiators in a manner that reflects the will of constituencies, even when that may run counter to administration priorities. ED owes this to the people who have entrusted the power to them through a democratic process. Whether one agrees with negotiated rulemaking as created by Congress, it's the law and should be reflected as such.

Second, in previous departmental forms, many have suggested that certain technical panels be made up of interested specialists to address narrow policy considerations. To that, AICUO and private colleges dissent. File sharing, articulation practices, and other controversial topics that have reached compromise through legislation deserve review by special and general interests alike. The most impacted of those, and those partially or minimally impacted, have differing interests, but equally deserve the right to a voice. We encourage the Department whenever possible to ensure that subgroups and special panels are kept open to broader input and that their recommendations are subject to full review by larger stakeholder interest.

Thank you very much for your time.

MS. McLARNON: Thank you.

MR. MADZELAN: Thank you. Ken McGhee.

MR. McGHEE: Good morning. My name is Kenneth McGhee, and I work here at Cuyahoga Community College as the Executive Director of Financial Aid.

Good morning. Thank you for selecting our college as one of the few locations nationwide to hold this important event. The Higher Education Act of 1965 as amended has an interesting history. I hold in my hand a copy of the original legislation. The first sentence of this document reads as follows: "An Act to strengthen the educational resources for our colleges

and universities, and to provide financial assistance for students in postsecondary and higher education." Working as a financial aid professional for the past 13 years, I have firsthand knowledge that the federal legislation has an important impact upon numerous students and their families. Financial aid administrators have four core duties and responsibilities.

First, we work to provide comprehensive financial assistance services to students, parents, high schools, and the general public, and our local community.

Second, we coordinate efforts with numerous campus departments to fully utilize technology to streamline the financial aid awarding process, and to better assist students by offering more options online.

Third, we review office operations for compliance for federal and state regulations.

Fourth, we consider industry best practices to see if they are a good fit for our institution. As I read the changes in the law, it appears that an attempt to create a balance between these four competing themes was in place.

I applaud your efforts to do so. I would like to now comment on specific areas of the latest version of the law which directly relate to the task which financial aid administrators juggle on a daily basis.

Number one, year-long Pell Grant funding. I support your efforts that led to the realization that some students attend school year-round. This change has the potential to increase student access to attain the college degree. My suggestion is that recordkeeping and eligibility monitoring requirements, which are necessary, and they're also pending development, be made keeping in mind a way to keep accountability, but not at the same time add too much administrative burden to a financial aid office.

As you are aware, frontline financial aid administrators have to balance their time between advising current and future students about numerous financial aid options, at the same time by reviewing every single document that is turned to the office for legal compliance. That is a constant juggle for financial aid administrators on a daily basis.

Second of all, I would like to talk about the provision for professional judgments for student loans. As you are aware, the definition of a family continues to change. Over the past 13 years, I have witnessed an increasing number of students in a family be able to document neglect or abuse. At the same time, more parents are refusing to serve as a main financial support for their children's educational cost. I understand your

efforts to increase student access by providing flexibility for a financial aid administrator to award a student an unsubsidized loan in this type of situation. Two concerns come to mind related to this provision.

First, many middle class families may utilize this option instead of following the standard financial aid process. Efforts are already underway, led by the U.S. Secretary of Education's office to make the FAFSA process easier for students and their families. The new professional judgment flexibility may not support the efforts by the Secretary's office to make the FAFSA process more straightforward.

My second concern is first-generation students and low-income students have shown that many are not comfortable with the financial aid process and overall college process. Research, mainly out of the University of California, Southern California College of Education, has shown that many low-income and first-generation students are just uncomfortable with the Internet altogether. Many dedicated financial aid administrators and other educators are working very hard to provide workshops and other outreach efforts to assist students and families in this situation. The new professional judgment flexibility could result in many Pell Grant eligible students not completing the financial aid process due to fear of the process and, in essence, only receive an unsubsidized student loan.

My other concern relates to professional judgment adjustments altogether. The change in the law now allows nursing home expenses not covered by insurance, unusually high dependent care expenses, and student dislocated worker status as examples of areas a financial aid administrator may use to make professional judgment to a family's data elements. It appears to me this flexibility was already in place due to Section 479 of the Higher Education Act, which reads as follows:

"Nothing in this part should be interpreted as limiting the authority of the financial aid administrator on the basis of adamant document to make adjustments on a case-by-case basis. However, this authority shall not be construed to permit an administrator of financial aid to deviate from contributions expected in the absence of special circumstances."

By the law now specifically naming a few circumstances, it appears many financial aid administrators may continue to request clarification related to the topic "professional judgment." It appears to me the spirit and intent of Section 479 already allows for special consideration to making a case-by-case decision for a student and their family. My suggestion is no further unusual or extenuating circumstances be added to the current professional judgment

doctrine. In closing, I would generally request that the next steps in a negotiated rulemaking process keep in mind the language and ideas and the original law in 1965, and the original themes appear to be student access, community service, and federal support for state colleges and universities.

Thank you.

MR. MADZELAN: Thank you. Karen Solinski.

MS. SOLINSKI: Good morning. Thank you for the opportunity of testifying before you this morning.

My name is Karen Solinski, and I am the Assistant Director for Legal and Governmental Affairs with the Higher Learning Commission of the North Central Association. The Higher Learning Commission is one of seven regional accrediting agencies that provide institutional accreditation within areas of jurisdiction that are defined by regional boundaries across the United States.

The regional boundaries of the Higher Learning Commission encompass 19 states, contained in an aggregate nearly two million square miles from Arkansas to Arizona. Within this Region, the Commission has granted accreditation status to over 1,000 institutions. The total head count of students at these institutions accredited by the Commission is nearly 5.9 million students. The Commission's membership includes institutions with a broad range of institutional mission. Within the membership are several major public and private research institutions such as the University of Michigan or Ohio State Northwestern, and prominent liberal arts colleges such as Oberlin College right here in Ohio.

But further broadening the Commission's membership are nearly 350 community and technical colleges, including this fine institution, Cuyahoga, as well as free-standing seminaries, schools of law, schools of medicine, schools of psychology, and schools of nursing. The Commission membership truly exemplifies the broad range of higher education at various degree levels being offered across the U.S. The Commission has been recognized by the U.S. Department of Education since it began recognizing accrediting agencies many years ago. The Commission believes that it is providing an important service to its membership by engaging in the regulatory process and voluntarily submitting to review by the Department in order to be recognized as a gatekeeper agency.

The Commission acknowledges that, in the past, federal regulations governing the recognition of accrediting agencies have, in general, fairly asked accreditors to demonstrate their appropriate stewardship of the task

entrusted to them of assuring for public benefit the quality of institutions to which they have granted status. It is in the spirit of maintaining this fair and balanced inquiry in the regulatory process that I offer my comments on a few areas in the new provisions of the law affecting the recognition process for accrediting agencies.

First of all, due process. The Commission has a longstanding commitment to procedural fairness and due process in every aspect of its processes, but particularly in processes that result in the actions to withdraw or deny accreditation. However, the Commission believes that it is very important for the agency to continue to be able to withdraw or deny accreditation and to be able to do so in a reasonably timely manner. Excessively stringent regulations related to due process could have the effect of significantly slowing the process and prolonging the ability of institutions that may no longer qualify for accredited status to retain that status and to continue to recruit and admit students while doing so. We cannot imagine that that result is one that Congress, the Department, or the public would want. After much debate during the legislative process about the appropriate extent of due process that should be afforded to institutions, Congress seems to have struck a reasonable balance between approaches that were suggested by various parties. We would urge the Department to accept the moderate approach outlined by Congress to allow agencies to take various approaches reasonable to the agency and not expand the expectations of due process beyond the clear boundaries set in the new provisions of the law.

Secondly, transfer credit. The language in the Act seems to set a clear expectation that accreditors confirm that an institution has transfer of credit policies that are publicly disclosed and include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution. This is a new regulatory demand both for accreditors and for institutions. While we are willing to rise to meet the challenge and believe that our institutions will do so as well, we ask the Department to move with some caution in drafting regulations on a topic that was very controversial during the legislative process. While there may be voices that urge the Department to craft regulations that add more specificity, we believe the language in the Act is clear on its face, and there is no need for regulations that provide additional refinements or reopen some of the concerns expressed by institutions about retaining their autonomy to make reasonable decisions about the quality of academic credits provided by individual students transferring into their institutions.

Thirdly, distance education. Distance education is a complicated and rapidly changing phenomenon in higher education. There is an increasing level of expertise developing in higher education from such organizations as WCET and from individual--key individuals who invested professional careers in understanding and advancing quality distance education. It's important that accreditors have the freedom to work both with their institutions and with these experts to implement accrediting approaches that provide reasonable rigorous authentication of students while at the same time taking account of appropriate privacy implementation and cost concerns. Excessively detailed or prescriptive regulations, especially ones that may be drafted before there was a clear understanding or consensus on how best to approach this challenge may very well move how both higher education and accreditation--into approaches that do not provide the most long-term, effective solution to the challenge of student authentication.

We urge the Department to remember the report language that indicates that Congress did not intend to mandate a specific methodology or technology in this area.

Finally, we ask the Department to adopt flexible rules, not only in relation to technology and methodology, but also in relation to timetable. It will take some time for accreditors and institutions to move beyond passwords and ID cards, but we believe that working together with the Department in a flexible regulatory environment, we can achieve appropriate solutions for the challenge of authenticating students in ways that protect students and the public.

Finally, monitoring institutional growth. The Commission acknowledges that it accredits some of the institutions that have experienced some of the most significant growth in recent years. We are mindful of our current responsibility under provisions of the law that continue, in effect, to ensure that these and all other institutions the Commission accredits remain in compliance throughout the institution's accreditation period with all the Commission's accrediting standards.

To fulfill this obligation, we are already collecting large amounts of financial and non-financial data, including enrollment data and conducting follow-up monitoring in relation to this data. The Commission also has substantive change policies that allow it to take special steps to review certain types of institutional growth and that mandate monitoring of growth of sites where significant enrollment growth is also likely to occur. In

short, we are already monitoring extensively in multiple ways that relate to institutional and enrollment growth.

While there is a sense in this new legislation that enrollment growth at accredited institutions is a concern, we wanted to remind the Department that enrollment growth, where conducted responsibly, can mean that more students have access to education at accredited institutions. Increased access for students is an important national goal, as this Department has already indicated. Regulatory approaches that lay out a detailed framework that institutions and accreditors must satisfy before an institution may be permitted to grow or that require an accrediting agency to set quantitative thresholds for growth or limitations on growth, or that even control or halt growth under certain circumstances, would be burdensome for the Commission to implement, but, more importantly for accredited institutions, likely to have a chilling effect on the expansion of access to higher education. We would urge the Department to adopt a flexible regulatory approach that allows recognized agencies to build on policies and procedures already in place and that are based on accreditors' judgment of institutional individual's history, and the knowledge that the institution gain through the peer review process. If the regulations do permit a flexible regulatory approach on this topic as we are requesting, we would also ask the Department staff at all levels to adopt a consistent approach that does not stray from the plain meaning of the regulation as it evaluates the compliance of individual agencies over the next few years. As many of you know, an enormous challenge for accreditors in recent years has been interpretations of regulations that not only differed from one Department staff member to another, but seemed significantly to extend or even violate the plain meaning of the regulation. Such an environment creates uncertainty, not only for accreditors, but for institutions that go about the important task of trying to educate students.

In conclusion, I want to express the commitment of regional accreditors to work with the Department through the negotiated rulemaking process, to achieve appropriate regulations that accreditors and institutions can effectively and flexibly address, and that will also meet the needs of the Department. Accreditors, both regional and specialized, can provide the best input on how we do our work and how our work can be adapted to meet the demands of the new legislation. Accreditors stand willing and ready to work with the Department to meet the expectations of these legislative changes, and to stimulate the best results in our accredited institutions.

Thank you very much.

MS. McLARNON: Thank you.

MR. MADZELAN: Thank you. Julie [sic.] Joseph-Silverstein.

MS. JOSEPH-SILVERSTEIN: Good morning. It is my pleasure to officially welcome you to Cuyahoga Community College. We're honored to have been chosen as a site for these hearings.

My career spans over 20 years working at university commuter campuses and the community college, institutions that often serve large numbers of students for which financial aid plays a crucial role in their--

MR. MADZELAN: Excuse me. Just, can you state your name and who you represent, just for our transcriber.

MS. JOSEPH-SILVERSTEIN: I'm sorry. My name is Jacquelyn Joseph-Silverstein. I'm the Executive Vice President for Academic and Student Affairs at Cuyahoga Community College.

In my current role as the Executive Vice President for Academic and Student Affairs, a significant portion of my work is dedicated to ensuring not only that our students have opportunities to access higher education, but also that they are provided with the programs and support services that are needed for them to successfully achieve their goals. I appreciate the financial support you have provided to assist our students in meeting their educational goals. During the last academic year, 2007-2008, 12,216 Cuyahoga Community College students received approximately \$43 million in federal grants and student loans. The vast majority of federal funding is from the Pell Grant Program. Others from our institution will be giving testimony later in the day. The sections of the law that are related to year-round Pell Grant funding, veterans issues, Federal Work Study, and college admissions requirements certainly demonstrate a federal commitment to college access.

I'm very pleased to see the changes made to the Pell Grant Program that provide year-round access to these funds for students. The literature shows that student retention and ultimately graduation is positively correlated with summer enrollment. Thus, these changes not only impact student access to education, but will impact student success as well.

Community colleges face real challenges as the numbers of under prepared students who face many competing personal responsibilities and financial issues come through our doors. We take our responsibility to help these students successfully complete their education very seriously. As a participant in the National Community College Initiative founded by the Lumina Foundation that is called Achieving the Dream, Cuyahoga Community College has extended its access mission to include students' success, and has

a number of programs and services to this end. Ultimately, public colleges and federal government share the goal of educating students, enabling them to make positive contributions to our global society.

Thank you very much.

MR. MADZELAN: Thank you. Chuck Knopfle.

MR. KNOPFLE: Hello, my name is Chuck Knopfle. I am the Assistant Provost and Director of Student Financial Assistance at Miami University here in Ohio.

Miami is one of 13 four-year public universities in Ohio. We have three campuses: our main residential campus in Oxford, our regional commuter campuses in the cities of Hamilton and Middletown. Miami, which will celebrate our 200th anniversary in the upcoming year, enrolls 21,000 students and we manage a federal Title IV aid budget exceeding \$75 million. First and foremost, let me thank you and the Secretary for your efforts over the last two years to bring us excellent guidance in relation to the College Cost Reduction Act, and the Ensuring Continued Access to Student Loans Act.

I understand how much time has gone into the changes you've been asked to manage, and please know how much we appreciate your efforts. From the new ACG, SMART, and TEACH Grants, to the recently increased Federal Stafford Loan limits, not only have I found the guidance to be delivered in a timely fashion, but I and my staff feel that the details have been covered sufficiently for our needs. Today, I'd like to give my thoughts on a few provisions in the Higher Education Opportunity Act of 2008. I hope that you take my comments into account when the various negotiated rulemaking committees are established and charged. I'd like to start with the topic of lender lists and Sunshine laws as covered in Sections 152 and 153. Miami University applauds the effort our Congress has made in ensuring that students are informed of any relationship or agreement between schools and lenders. It's critical for us to regain the lost confidence that we've seen nationwide from students. It's imperative that the process of negotiated rulemaking not water down the language as currently written. Students need to know that schools are fully disclosing all aspects of the process by which we choose the lenders that we recommend to students and their families. The law as written provides that assurance, and I hope it is fully implemented as intended by our elected officials.

On that same note, however, I believe there could be an unintended consequence of some language in Section 154. Miami, a Direct Loan school, would fall under the provisions of this Section. As currently worded, it

could possibly be concluded that individual Direct Loan schools will be required to provide the loan disclosure to students that is currently allowed to be provided by lenders in the FFEL Program. Please don't misunderstand me: I think being upfront and disclosing full loan terms to students is critical, both in direct lending and in FFEL; however, the administrative burden of providing that disclosure should remain with either the lender or the guarantor which, for direct lending schools, is the Department of Education.

Second, I'd like to focus for a minute on the issue of private or non-federal loans. I have to admit that I was disappointed with the provisions in the Reauthorization Act addressing private loans. Specifically, I was hoping to see legislation that eliminated direct-to-consumer loans by requiring all education loans to be approved by a school's financial aid office. I also encourage you to consider making the same disclosure requirements of private loans that currently exist for Stafford and PLUS. Hopefully, there's enough flexibility in the regulations as passed to allow these important changes to the ever-increasing and financially dangerous private loan market.

Third, I ask the Department take full advantage of the wording in Section 473 that allows the Secretary of Education to work closely with the IRS to create a simplified student aid application process. It seems to me that such an arrangement is a win-win-win for families, schools, and the Department. Families get to file a greatly simplified FAFSA form, schools virtually eliminate the verification process, and subsequent financial award changes, and the Department will find that it will not need to process nearly as many FAFSA change records.

And finally, as you go forward with the selection of negotiators for negotiated rulemaking hearings, I urge you to choose at least one negotiator whose primary role is to represent direct lending schools. As a direct lending institution looking at the makeup of past negotiated rulemaking groups, I've seen individuals from lenders, guarantors, and even from associations created by the lending community. As I've said earlier, with the Department of Education as our lender, and with its committed position of non-favoritism for the discussions between direct lending and FFEL, it is not possible for our lender to represent the needs of the direct lending program. I ask that a member of the National Direct Student Loan Coalition be asked to serve in this capacity for any negotiated rulemaking group that will tackle loan issues.

Thank you for the opportunity to speak to you today. I find it reassuring that we are being asked to provide input for this all-important phase of reauthorization.

MR. MADZELAN: Thank you very much.

MS. McLARNON: Thank you.

MR. MADZELAN: Well, we have come to the end of our list for the morning, but we do have some people who have signed up for the period immediately after lunch, and I'll see if they're in the room now and would like to speak. So, I'll see if Jackie Fairbairn is here. Yes, she is. And if she would like to speak, she may come forward. And again, just as a reminder, would you again state your name and the organization you're with for our transcriber.

MS. FAIRBAIRN: Good morning. My name is Jackie Fairbairn. I'm the Director of Policy and Regulatory Compliance for Great Lakes Higher Education Guarantee Corporation.

Great Lakes is a private, nonprofit corporation that administers the Federal Family Education Loan Programs, otherwise known as FFEL. As a leading guarantor of student loans for over 40 years, Great Lakes is a nonprofit guarantee agency serving over 2 million student loan borrowers, 2,700 schools and 1,400 lenders across the Nation. We work with these students, borrowers, schools, lenders, and community organizations to change lives for the better through higher education. Our mission is to make the dream of education a reality by providing financial education and operational support at every stage of the educational journey.

To begin, Great Lakes endorses the testimony given by Shelly Saunders on October 8th, representing the National Association of Student Loan Administrators, otherwise known as NASLA. Great Lakes strongly believes that negotiators should be seated who are closest to the operating level that will be most directly impacted by the regulatory framework. NASLA's membership is comprised of the four of the largest guarantee agencies in the country, and all of the original VFA guarantors, and is the singular organization representing unbundled standalone guarantors.

As a private, nonprofit, voluntary membership organization, NASLA has been an effective voice for student loan guarantors whose mission is to ensure consistent and reliable student loan services to America's students, parents, and postsecondary education institutions. As such, Great Lakes supports the call for NASLA to be represented in the negotiated rulemaking activity. In addition, Great Lakes believes that the implementation of the

Higher Education Opportunity Act through the negotiated rulemaking process presents an excellent opportunity to revise federal regulations toward enhancing borrower benefits, simplifying student loan borrowing, and promoting successful loan repayment.

In that regard, Great Lakes endorses and supports the issues identified by NASLA, and encourages the Department to focus on improvements to the regulations that increase borrower access to critical default prevention services, loan forgiveness and discharge entitlements, and that strengthen but do not unduly burden our collective oversight responsibilities.

In addition to our support of the issues raised by NASLA, Great Lakes also supports the following additional list of issues for negotiation, and I'm only going to mention a few of them; the rest of them were in the NASLA testimony. The first is the Income Based Repayment Program. Despite the success of last year's negotiated rulemaking, the discussion with respect to Income Based Repayment Program, otherwise called IBR, was quite complex and there was limited time to fully consider whether the draft regulations might contain any unintended consequences. One such consequence has come to our attention related to IBR eligibility, and we are concerned that others may surface as the community works to implement the new IBR repayment plan. The specific consequence deals with the proposed regulations in 682.215(a)4 that outline the eligibility criteria for a partial financial hardship, which is the nexus of the IBR Program.

According to the regulatory language, the loan holder must use the borrower's payment amount as calculated on a ten-year repayment plan to determine eligibility. We believe that the negotiators agreed with the requiring lenders to use the ten-year repayment plan that is calculated at the time the borrower initially enters repayment under the belief that using these initial payment amounts would avoid disparate treatment of borrowers. However, as we work to implement the IBR plan, we now believe this decision may negatively impact many borrowers for whom IBR would be provided--the relief intended. In some cases, a determination of eligibility for IBR will be based on old data that is no longer relative and no longer demonstrative of a borrower's ability to pay. As such, we contend that lenders should be required to use the greater of the ten-year monthly payment amount established at the time the borrower initially enters repayment or the monthly payment amount in effect at the time the borrower requests IBR.

We have examples that I have provided in writing to you at the end of my testimony that will help illustrate this point, and the cohort of

borrowers who would be ineligible for the full benefit of IBR unless IBR regulations are again examined and the unintended consequences of the existing regulations are appropriately revised. The next issue is economic hardship deferment eligibility and the treatment of non-taxable income. Great Lakes believes the economic hardship deferment regulations regarding the option for a borrower to provide his monthly income to demonstrate eligibility for this deferment requires clarification. Section 682.210(s)6vii of the regulations define monthly income as either the gross income amount of income received by the borrower from employment and other sources, or one-twelfth of the borrower's adjusted gross income as recorded on the borrower's most recently filed federal tax return. If the borrower submits information from his or her tax return, the figure utilized in the calculation to determine hardship eligibility reflects the IRS instructions for determining AGI, a figure that does not include non-taxable income.

The instructions define this non-taxable income as child support, life insurance proceeds, gifts, and bequests. However, it is not clear if these non-taxable sources are to be excluded when a borrower is providing the lender with the gross amount of monthly income received from employment and other sources. Some in the loan community define other sources to include child support, and as a result, this source is used when determining the eligibility for economic hardship deferment. We would like the Department to consider revising the regulations that clarify the monthly income used for determining economic hardship deferment eligibility be treated the same as one one-twelfth of the AGI, limiting it to income that is taxable and not including non-taxable income such as child support, insurance proceeds, gifts, and bequests. We believe excluding non-taxable income, regardless of whether the borrower is providing monthly income statements or tax filing documentation is consistent with the intent of the regulations, and therefore requires clarification.

The third issue is total and permanent disability and its eligibility criteria. As mentioned, Great Lakes supports the comments made by NASLA with respect to the implementation of the new statutory standard for meeting the eligibility requirements for total and permanent disability discharge. We also concur with NASLA's belief that the Higher Education Opportunity Act provides an opportunity to revise regulations to reflect a more reasonable discharge standard for all borrowers, as well as address several subjective and onerous processing standards that have created undue hardships for our most vulnerable borrowers. In addition to identifying and tracking the

subjectivity and subsequent negative repercussions of the current process on otherwise eligible borrowers, Great Lakes has been working with student advocacy groups to develop alternative methods that we feel would simultaneously result in a higher quality of service and improved oversight to protect against fraud.

We encourage the Department to consider us a valued resource and partner in the disability discharge process, and we would appreciate the opportunity, through the negotiated rulemaking process, to share these alternative methodologies in detail.

The fourth issue, and final, is direct-to-consumer private loans and student protections. Great Lakes endorses the comments made by the Institute for College Access and Success with respect to private direct-to-consumer student loans. We also believe that the Department should do as much as possible to assure the highest level of counseling and disclosure is provided to help students and their families distinguish between private loans from federal student loans. We further encourage the Department to maximize all opportunities to tie these DTC loans into the school certification process, and we agree that increased oversight is needed to protect against fraud and abuse. All of these efforts are necessary to ensure the lowest level of non-federal borrowing. We also believe that guarantors in their role as borrower-advocates should support these counseling and disclosure requirements, and we encourage regulatory guidance toward that end.

Thank you.

MR. MADZELAN: Thank you. Margaret Richards.

MS. RICHARDS: Good morning. My name is Margaret Richards, and I'm a Client Services Representative in the Midwest 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 Education Loan Program. EDFUND offers students a wide range of financial aid and debt management information while supporting schools with advanced loan-processing solutions and default prevention techniques.

EDFUND was founded in 1997, and in 2006-07, processed more than \$9.3 billion in student loans, and 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 am pleased to be with you here today to discuss just a few issues that are of particular importance to EDFUND and the schools, families, and students we serve. 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 law in the best interest of the students and families we serve at the forefront.

The first topic I'd like to discuss relates to entrance and exit counseling activities performed by lenders 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 service 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 the express congressional intent, we request that the Department modify its regulatory position on guarantors and lenders performing both entrance counseling and exit counseling on behalf of any institution that requests it. EDFUND believes that allowing lenders and guarantors to assist both Direct Loan and FFEL schools with entrance and exit counseling activities is good for schools, good for the loan programs, and most importantly, good for students.

As financial aid offices 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 agree is important. We suggest the Department align its regulations with the HEOA and with the congressional intent with regard to entrance and exit counseling performed for any FFEL or direct lending institution that may require assistance.

The second topic I'd like to address relates to a new provision in the law that requires schools with cohort default rates of 30 percent or more to assemble a default prevention taskforce 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 delinquency and default. By including the guarantee agency in the taskforce designed to help the school develop and implement its default prevention plan, schools are able to take advantage of existing resources and expertise as well as ensuring that these default prevention plans become effective tools as intended. Guarantors can help them 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 the trusted advisor so we can guide the direction and help schools focus their goals. The financial aid office should not be the only department on campus held accountable for defaults. Until the entire campus community understands its 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 party to get the discussion going and gain support of other campus officials. A guarantor can help in this process. Guarantors could 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 student loan programs by

utilizing the demonstrated experience of the guarantor community to better serve postsecondary institutions and the students we all serve.

Thank you for the opportunity to speak with you today. Any questions-- or that's not been any questions?

MR. MADZELAN: Thank you very much.

MS. McLARNON: Thank you.

MR. MADZELAN: We're going to go ahead now and break for lunch, and we will reconvene at 1:00.

Thank you.

[Recess.]

AFTERNOON SESSION

MR. MADZELAN: Welcome back. We will continue the hearing at this time, with Nina Turner. Nina. And again, as a reminder, please, when you come to the podium, state your name and where you're from and who you represent for our transcriber.

MS. TURNER: Good afternoon, ladies and gentlemen. My name is Nina Turner. I am a professor here at Cuyahoga Community College, as well as a Senator for the State of Ohio. And it certainly is an honor to have the opportunity to discuss today the issue of financial aid, its challenges, and opportunities.

Again, I speak today as a person serving two roles: in my capacity as an educator at Cuyahoga Community College, as well as a State Senator representing the concerns of over 330,000 Ohio residents. In both roles, I hear many personal stories from students and their families who are attempting to pay for day-to-day expenses and afford a college education. The challenges impacting Ohio families--college access has received recent media attention. On August 25, 2008, USA Today published an article entitled "College Work to Keep Students in School Until They Earn Degree." Governors of several states, including Ohio, Arizona, and Michigan made a commitment to produce more college graduates to meet workplace demands. One of the numerous challenges for college students to surmount is obtaining the funding to complete a college degree.

On September 9, 2008, the Crest News reported that, based upon a July survey by the National Association of Student Financial Aid Administrators, more than 90 percent of financial aid administrators were concerned about the student loan crunch. On September 14, 2008, MSNBC reported on a story entitled "Ohio Housing Market Troubles Spill into Financial Aid Offices." Many Ohio families, as well as families nationally, are finding it difficult to leverage private student loans. While these loans should be a last resort, some students and their families need these funds to bridge the gap to pay for college expenses. This difficulty, as all of us understand, is rooted in the international credit crisis. Even before this epidemic became apparent to the rest of the Nation, the Greater Cleveland area was in the eye of the foreclosure tsunami. The negative impact of this situation has ravaged our neighborhoods and now threatens to sabotage our future growth. We can, however, change this trajectory with investment in our human capital.

At the Euclid Chamber of Commerce Business Development Luncheon last week, Ohio Board of Regents Chancellor Eric Fingerhut talked about the goals of the university system of Ohio. I believe these goals are at the pinnacle of our future progress as a state. They are, number one, graduate more students from our colleges and universities.

Number two, keep our graduates in Ohio.

And Number three, attract more talent to our region. It is critically imperative that we work vigilantly to provide an environment that cultivates young minds. This cultivation is the catalyst for a strong Ohio, a stronger America, and stronger world. Moving forward, an unshakeable commitment at the state level to work towards the goal of keeping educational costs affordable while maintaining a quality educational experience and producing more college graduates is priceless.

Cuyahoga Community College is a committed partner in this regard. Just as important, however, is continued federal support for college students to assist states in meeting their goals. As a first-generation college graduate from a poor family, a family of a single mother and seven children, I understand how important it is to have access to grants, to scholarships, and to loans. With the proper guidance, investment, and direction, people from all walks of life can overcome seemingly insurmountable odds. And I want to share with the members that I myself should have been a statistic. My mom had seven children. She was not a college graduate, and studies show that I should have had a house full of children and no college education. But it is because of places like Cuyahoga Community College that first-generation students like myself had an opportunity to surmount those obstacles, and surmount them I did. And it is because of relationships with professors and teachers and administrators who really care--surmount those obstacles, I was able to. So, the mission is clear: Government must increase its efforts through the vehicle of economics and public policy to provide access for young people to obtain a college education. And although times seem bleak right now, I do believe that there is promise in the problem. I, in my capacity as an educator, as a legislator, and as a mother of a college student at Youngstown State University, I remain committed to helping others live out their greatest greatness, using education as the prime medium to reach their goals.

I thank the members of the U.S. Department of Education for this opportunity. I thank you for coming to Greater Cleveland area, and

particularly Cuyahoga Community College, and I am happy to answer any questions that you may have.

Thank you.

MR. MADZELAN: Thank you.

MS. TURNER: Thank you.

MR. MADZELAN: Tina Royal.

[Pause.]

MR. MADZELAN: Let's see. Paul Frank. Paul.

MR. FRANK: I apologize for not having copies of my remarks. I've been sketching them out through most of the day, but I will be sending in a copy to the Department.

My name is Paul Frank. I'm the Director of Government Relations for the Federation of Independent Illinois Colleges and Universities. Our association represents 58 nonprofit private institutions that enroll more than 204,000 students in Illinois. Our institutions include very large research institutions with international reputations that you've heard of, the largest private college in the Midwest, and many small liberal arts institutions, also. The private colleges in Illinois, together, are now larger than the public university system in Illinois. We enroll more students, produce more graduates annually. We've become an important foundation and an important choice for students in Illinois and throughout the Midwest, and nationally and internationally, of course.

In Illinois, we're in the midst of a public agenda planning process, creating a new future map for higher education in our state. We're looking at all the issues that the Congress has been looking at in recent years that culminated with the passage of this opportunity act, but our state finances are in peril, that's creating a growing affordability gap, and we like to refer to it as an affordability lag. There is a significant disparity--a significant increase in how much college affordability has decreased in the past ten years. It used to be our state grant program would help needy students afford 100 percent of public university tuition, and as much as 30 percent of tuition at some of the private institutions. That grant program now affords about 60 percent at the public universities due to the increases in tuition and lack of ability to increase those grants. And at the private institutions, it's down to about 20 percent. Luckily, our institutions contribute a significant amount of institutional resources to grant aid. And despite the increase in the use of loans, our students--our graduates generally graduate with only about \$3,000 more in debt than public university

graduates do. So, we're quite proud of the work that our institutions do to help needy students from all backgrounds attend.

The rest of my comments would be directly towards, hopefully, the future of what the Department is going to do with this legislation and the rulemaking. Our institutions have asked us to remind you that sometimes when it comes to reporting requirements and definitions and data collection that less is more. We believe that this bill is definitely going to add to operating costs of colleges and universities. It's going to be especially burdensome on some smaller institutions that don't have the staff with excess workload capacity. The burden of new reporting requirements in this bill is very large. Of course this is the law now, but please bear in mind that the bill did also make some steps to ease this burden, and that includes the usage of existing IPEDS definitions when possible, converting some of the provisions that started off as mandates into institutional reporting requirements, and using new tools like posting on campus websites instead of necessarily submitting reports to the Department.

We urge the Department and all of those involved in negotiation of the rules to keep in mind simplicity is a good rule of thumb, and to use existing definitions continuing--going forward, when possible. It's going to help ease implementation on the campuses where staff resources are limited sometimes.

We also urge you to please select legitimate representatives of the interested parties and associations. Certainly, we have a particular type of institution that we represent as well as the national associations that we belong to. We have heard from our institutions, our presidents, that in recent years negotiators with very narrow perspectives have been selected to represent broader sections of the higher education community. This can sometimes be a disservice not only to the community, but to the representatives themselves who are put in untenable positions and end up being torn between organizations that they may be employed by or that they represent and the broader sectors of higher education.

We urge you to select negotiators who will accurately and directly represent the various sectors of our higher education system. And lastly, regarding the illegal downloading of files, we were disappointed that the Higher Education Opportunity Act singled out higher education institutions with regard to this activity, the illegal downloading of files. Most of this activity does not occur on college campuses. That said, the rules of this section will have an impact on the operation of our information networks in terms of staff, time, cost, and network stability. It's important that the

Department get the implementation of this section right. Please avoid a one-size-fits-all approach. Institutions require a great deal of flexibility in how they deploy technology, and how the deploy efforts to combat infringement, and how they offer alternatives.

That concludes my remarks. We thank you for your time, and I've enjoyed my visit here in Cleveland.

MR. MADZELAN: Thank you. Tina Royal. Thomas Klecan. Rob Bird. Those are the people that we have signed up for this afternoon who have not yet spoken. At this point, we'll just recess until one or more of these persons arrive and provides testimony. So, as I said, we'll recess for the moment and we will reconvene when our next speaker arrives.

Thank you.

[Brief recess.]

MR. MADZELAN: Let us reconvene and ask Tina Royal to come and speak.

MS. ROYAL: Hi. Thank you.

MR. MADZELAN: Thank you.

MS. ROYAL: Good afternoon. My name is Christina Royal, and I am the Executive Director of Distance Learning at Cuyahoga Community College. We have a very robust distance learning program at my institution. Our accreditation is through the Higher Learning Commission, and it was recently expanded to include some fully online degree programs.

The reauthorization of the Higher Learning Act includes language that accreditors' verify that colleges take some steps to establish that the student who registers for a distance education course or program is the same student who participates, completes, and receives academic credit for that course or program. I believe it's important that we do not create a double standard in higher education by specifically addressing this issue for only distance learning. Many institutions, including Cuyahoga Community College have the exact same learning outcomes applying to courses whether they are taught in the classroom or via distance learning. And while the pedagogical approaches to teaching and assessment in a classroom-based and a distance course may differ, the expectation for meeting the learning outcomes is the same regardless of the delivery mode.

I would encourage you to consider looking at policies and practices in place for the traditional classroom before considering a separate standard for authenticating students in distance learning courses or programs. I would

also ask that you consider pedagogical approaches in addition to technological solutions when considering issues of authentication of students in all types of courses, including distance learning. Knowledge of best practices to ensure high quality and integrity of a distance course or program, research on student success in distance and online learning, and technological advances of the systems through which distance and online courses are offered have evolved substantially in the 21st century.

Distance learning and specifically online learning has earned the respect as an equal to its classroom counterpart, and the policies and practices established at the federal level should reflect this. I would also encourage you to consider this approach when looking at not only academic issues such as authentication of students in classroom and distance courses and programs, but also when reviewing Student Support Services, including financial aid.

Thank you for your time.

MR. MADZELAN: Thank you.

MS. McLARNON: Thank you.

MR. MADZELAN: Thomas Klecan. Please help me with your surname.

MR. KLECAN: Klecan, it's fine. Good afternoon. My name is Thomas Klecan. I have been a firefighter with the city of North Olmsted for over 29 years, and the Fire Chief of the Department for the last six.

I am here today speaking on behalf of the Ohio Fire Safety Coalition, and as an ex-Board Member of the Northeastern Ohio Fire Prevention Association, and as past President of the Northeast Ohio Fire Chiefs Association. I've been concerned with public fire safety for over 20 years, and I will be speaking specifically about the language pertaining to Campus Fire Safety Right to Know. The language for Campus Fire Safety Right to Know was first proposed as legislation in the year 2000 following a fire at Seton Hall University, which killed three students, and injured over 50 others. The legislation, when finally passed in 2000 received bipartisan support. This new law requires schools to report fire safety information annually to the Secretary of Education. This information is to be included, but not limited to, the number of fires, number of fire injuries and fatalities relating to fires, damaged caused by fires, number of beds protected by sprinklers and fire alarms, and the amount of fire safety training provided to the students.

In addition, the Secretary of Education is to compile a list of best practices. All of this information is to be made publicly available. The

primary focus currently is on on-campus residence halls, and does include off-campus housing or housing not owned by the schools.

The information is intended to assist prospective parents and students to evaluate the level of fire safety at a school and to have this information included in the decision-making process when selecting a school. Public disclosure of this information will allow for a more level playing field by requiring uniform reporting, and additional will encourage schools to improve, if necessary, the safety components they currently have in place thereby improving fire safety for students, faculty, and visitors. Most, if not all, schools already have this information on hand; however, in the past, reporting of it was voluntary only and there were no uniform means of reporting. This allowed schools with poor fire safety practices to ignore or gloss over their poor practices.

Today, many schools have already started compiling and posting this information. Other schools have taken even stricter measures to ensure student safety. Unfortunately, many of those have done so following a catastrophic event which cost several lives. After almost 30 years in the fire service, I have learned that most fires are preventable, and with the technology available today, the fires that do occur are increasingly more containable. Many people, especially our young people today, are quite naïve to the real destructive power of fire. As a society, we have almost totally contained that destructive nature; however, movies and television take quite dramatic license in portraying impossible situations for the purpose of entertainment, yet yearly we are tragically, and often fatally, reminded of fire's destructive nature. I am here to remind you of Congress' intent when crafting your rules as they pertain to campus fire safety. I wish I could stand here and report that there was no need for this legislation, but there is.

I do, however, have a great deal of hope that, with the proper rules and regulations in effect, we will some day in the very near future ensure that the safety of every student at school is as good or better than his safety at home.

Thank you for your time. Do you have any questions?

MR. MADZELAN: Yeah, I was wondering if I could ask you to comment on something, and after you comment, I'll tell you why I asked--

MR. KLECAN: Okay.

MR. MADZELAN: --if that's okay. I'm wondering, in your experience, what--I'm interested in learning about relationships between colleges and

universities and local fire departments. And you probably know that, for a number of years now, here in the Education Department, we've been collecting from institutions the Clery Act crime statistics. And that's been pretty successful and a part of that is due to the fact that many campuses have police departments. I'm guessing there aren't too many campuses that have fire departments. I'm sure there's one or two out there somewhere, but--so, again, I'm wondering if you could talk a little bit about your experience there.

MR. KLECAN: Sure. Most schools rely on the municipality in their location to provide them with fire protection, and it is a big issue. The State of Ohio has mandated in new construction of dormitories to be sprinklered, which is a great thing. Unfortunately, we have a lot of older schools and a lot of off-campus housing.

The relationship between the fire departments and the schools runs the gamut from very, very good to sometimes quite poor. Sometimes it's the fault of the fire department, sometimes it's the fault of the school, and somewhere in the middle. I think both the schools and the fire departments want to ensure the safety of the students and the faculty and the visitors as best they can, and I think this is a good step in providing that.

MR. MADZELAN: And the reason for asking that is, again, going back to collecting our crime statistics. I mean--because many campuses do have police departments. That kind of--that reporting to the Department, which schools were never required to do before, and we implemented it via electronic means, a Web-based data collection tool. That's--and again, we're just thinking not so much rules but process, if that eight or ten years ago, when we first started doing this, we knew that cops knew about computers because they've been dealing with them for a long time. And so, I guess--again, I ask the question more in the context of a process issue around ensuring that the reporting by colleges and universities on fire safety, those specific categories that you mentioned--that we will be able to accomplish that in a way--

MR. KLECAN: Right. In our own industry, we recently went to a "near-miss" reporting system, where we went with the fire service and accidents that were missed but could have been severe, and you would be surprised how often the statistics as they proved out--and they are now taking that data and looking at changing certain procedures and tactics, because too often we're missing the boat and we're incurring too many near misses, and eventually one of those will become a fatality that we could have prevented.

I agree. I think the statistics, once they come out, will start to show that maybe the problem is a little more--a little larger than it's been portrayed to be, and that's not unlike the general public, either.

In the State of Ohio, we are required to report any unfriendly fire which starts as a means--and probably 80 to 90 percent of those go unreported every year. So, it will help to ensure student safety and that of the faculty and staff and visitors. So, I applaud this legislation.

Thank you.

MS. McLARNON: Thank you.

MR. MADZELAN: Rob Bird is not in the room at the moment, but he is actually scheduled for a little bit later this afternoon.

So, again, at this time we'll take a recess, and when our next speaker is ready to speak, we will reconvene.

Thank you.

[Brief Recess.]

MR. MADZELAN: We will now reconvene and hear from Rob Bird. And Mr. Bird, when you come up, please state your name and who you represent for the record here.

MR. BIRD: I'd like to thank everybody for their patience. I realize there was a bit of a timing issue.

Good afternoon. My name is Rob Bird, and I'm the President and founder of Red Lambda, a software security company based in Orlando, Florida.

I've worked in technology in education for over 15 years. I used to be the Network Architect at the University of Florida prior to founding Red Lambda. And I've also served as an expert witness to the U.S. Congress regarding the mitigation of peer-to-peer file sharing, as well as advising the technical committee for the joint committee of higher education and the entertainment industry. I'd like to thank the Department of Education for giving me the opportunity to speak to the HEA at provisions that address the use of university computer networks for illegal file sharing.

My purpose here today is not to go over that problem one more time; I think that's been discussed quite a bit, but what I am here to do is to discuss some of the great successes that have been had by people trying to implement technology controls.

For a little background, I founded Red Lambda in 2005 after licensing my own technology from the University of Florida. It was something that we

had developed there to combat illegal file sharing on campus, and it was a rampant problem just like it was everywhere else.

The software called Integrity was developed in conjunction with the Student and Faculty Senate, campus educators, and psychologists from the campus counseling center. Our hope was to develop a solution that would change user behavior and promote the educational mission of the university in the process.

Integrity was designed with three goals in mind: It had to preserve the privacy and academic freedom of the network users while making them accountable for their behavior. It had to be able to detect any type of peer-to-peer behavior, whether it was encrypted or not. And it had to be flexible enough to adapt to changing policies, applications, and network infrastructure. Since then, Integrity has continued to evolve to meet the diverse needs of university administrators, shaped by both our customers and the input from the higher education community.

To highlight what is possible with technology controls, I would like to share the exceptional results achieved by two of our customers, the University of South Florida and the University of Florida. Although they are only separated by about a hundred miles, and part of the same university system, the approaches taken to the file sharing problem and how they would solve it by those two institutions could not be more different. In fact, it is their remarkable success in spite of this difference that I believe makes the application of technology control so compelling. At the University of Florida, the school chose to prohibit the general use of P2P, using case-by-case exceptions to provide flexibility for faculty and students. The judicial affairs staff elected to implement a three-strikes policy, with escalating punitive enforcement for repeat offenders to be applied automatically by Integrity whenever P2P was detected.

When first deployed, Integrity's impact was staggering. Bandwidth use was reduced by 85 percent. The Digital Millennium Copyright Act complaints, DMCA complaints were reduced to zero, and in fact they've never received another one since 2003, and recidivism, perhaps the most useful statistic for determining the impact on user behavior was reduced to less than 10 percent.

In stark contrast, the University of South Florida chose not to restrict the use of P2P in any way, which is completely opposite of what the University of Florida did, instead opting to advise students in real time who were using P2P that they could be exposing themselves to unintended liability. Integrity took no punitive action against anyone. Instead,

automating the communication with the student when activity was detected. The results were just as dramatic at USF as they were at UF. And in fact, USF, who was ranked number three on the RIAA worst offender list, dropped to number 233 in their first month alone. What's even more interesting about the University of South Florida is the fact that they chose to only protect their dormitory network. So, over 90 percent of the campus was left unprotected, and yet they were able to have such a tremendous impact on the greater use of file sharing on the campus, simply by advising people that they could be exposing themselves to liability. While each school chose to solve the problem in different ways, their solution really shared three vital components: accountability via identity, consistency, and immediacy. What is clear from these examples is that it is possible to use existing technology to preserve academic freedom, privacy, and collaboration while drastically reducing or eliminating the abuse of file sharing.

What is also interesting to note is that both schools had previously updated their policies, created educational materials, and special programs all in the hopes of educating students and changing behavior, all to no avail. To quote one university student that we spoke to when I was initially employed at the University of Florida, he said, "Well, we knew that no one was actually looking, so why care." As we explore solutions to the challenges faced by universities, it is vital that we not vilify P2P as a technology in the process. We must be cognizant of the fact that P2P is merely an enabling technology, one which will have broad implications for the future of computing.

Ironically, Integrity, our software, is itself a P2P application, albeit one used for security. Instead, we must focus on better ways to provide universities with the transparency and accountability required to effectively administer policy. That's what it really comes down to. Policies are written for people; they're not written for IP Addresses, and that's fundamentally the challenge that administrators face.

We look forward to continuing to work with the higher education community, and to continue to provide affordable and effective solutions to file sharing.

Thank you.

MR. MADZELAN: Thank you very much. Well, we, at the moment, have no other speakers signed up for this afternoon.

We will take a recess until 3:00, maybe a little bit--it would be a little bit sooner if another speaker comes up, and then, at 3:00, we'll assess where we are.

[Brief recess.]

MR. MADZELAN: At this time, we have no more speaker signed up to speak, so we will adjourn this hearing. But before I do so, again, I want to thank all of the persons who came out today and shared their ideas and their thoughts around how we should go about--we, the Education Department--should go about regulating the reauthorization of the Higher Education Act.

And again, once more, I just want to extend our thanks on behalf of the Department, to Claire Rosacco and her team here at the Cuyahoga Community College for providing us with this wonderful venue to hold our hearing. So, with that, I will ask my colleague Gail if she has anything to add.

MS. McLARNON: No, I would simply echo Dan's comments. Again, a big thank you to Claire and her staff, and our Webmaster, and our transcribers, and our signer, and all of the folks that made this a very successful hearing. Thank you very much. And we will certainly take all the comments that we heard into consideration as we move forward and hopefully organize some negotiating teams and write--what would be our next step--another Federal Register Notice letting the public know what our plans are.

Again, thank you very much to everyone.

MR. MADZELAN: And with that, we are adjourned.

[Whereupon, at 3:02 p.m., the public hearing was adjourned.]