NYC Consumer Affairs

Comments Received by the Department of Consumer Affairs

on

Deceptive Advertising by For-Profit Educational Institutions

as made available for public inspection

IMPORTANT: The information in this document is made available solely to inform the public about comments submitted to the agency during a rulemaking proceeding and is not intended to be used for any other purpose

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Troy Ashby

43 Main Street

Goldens Bridge, NY 10526

April 4, 2019

Casey Adams

Director of City Legislative Affairs

New York City, Department of Consumer Affairs

42 Broadway, 8th Floor

New York, NY 10004

To whom it may Concern,

My name is Troy Ashby and I currently live in Goldens Bridge, New York. I attended Berkeley College at the White Plains and Midtown Manhattan campuses from approximately 2012 to 2015 and earned a Bachelor in Business Administration with my concentration in Healthcare Administration. I am also a veteran of the United States Air Force and attended Berkeley College under the GI Bill. As with many other great schools, Berkeley College has a fantastic environment for military members and veterans. The staff at Berkeley helped me navigate the intricacies of the GI Bill and also connected me with other military and veterans. This made my educational experience that much more welcoming.

To the point of this letter, I am writing on behalf of myself and Berkeley College. I graduated from the school in July of 2015. I would like to emphasize the words "graduate" and "school", because that best summarizes the outcome of my experience in higher learning. I use the words willfully, because I did not attend a business. I did not graduate from a business, nor did I ever feel like I was contributing to a business. To me, such a suggestion diminishes 3 years of dedication and hard work on my part. I must also emphasize that no promises were ever made to me. The only promise I can recall was assistance in finding a job after graduation.

During my time at Berkeley College, I had a number of great professors. These were dedicated educators with professional backgrounds in their field and education in general. Some of these professors had even assisted me after graduation in my decision making toward my next step out of college. I don't know of many businesses that can say their employees do that.

Finally, my career started thanks to Berkeley College. Through their Externship program, I was introduced to the Mount Sinai Health System. Thanks to a fair at a Berkeley College campus in 2015, I was able to earn my place in the 2nd largest employer in New York City, just behind the Board of Education. I graduated in July of 2015 and have been with Mount Sinai ever since. I credit Berkeley College for the knowledge and opportunity afforded me. I am currently in Talent Acquisition where I recruit, source, and onboard new talent into our health care system, in particular, New York Eye and Ear Infirmary of Mount Sinai. I never envisioned myself in this field, but thanks to my education at Berkeley College, I have the tools needed to adapt and excel in this position.

Berkeley College was an excellent learning environment and experience, not a business. I cannot stress that enough. If more information regarding my experience is required, I can be reached through the school.

Thank you for taking the time to read this letter and take its contents into consideration.

Sincerely,

Troy Ashby

Troy Ashby

apc Association of Proprietary Colleges

Excellence. Access. Affordability.

April 2, 2019

Casey Adams
Director of City Legislative Affairs
New York City, Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

Re: Comments on NYC DCA Proposed Rules Regarding Deceptive Trade Practices of For-Profit Educational Institutions

Dear Mr. Adams,

As the President of the Association of Proprietary Colleges (APC), I am here today to express my concerns with the rules proposed by the New York City Department of Consumer Affairs ("NYC DCA") to regulate the speech and practices of certain for-profit educational institutions.

I request that the proposed rules be modified to ensure that degree-granting proprietary colleges are exempt from any rules or regulations put forward by the NYC DCA related to for-profit schools, given that our institutions are colleges, not "schools," and are currently regulated by both federal and State government.

The proposed rules appear to be focused on proprietary schools – meaning non-degree schools that offer certificate programs. However, the actual language of the proposed rules clearly indicates that they would not apply to non-degree schools licensed by the Bureau of Proprietary School Supervision (BPSS), but rather to degree-granting for-profit colleges exempt from such licensure because they are otherwise regulated by the New York State Education Department.

My testimony today, presented on behalf of APC's six member institutions located in New York City, will focus on:

- Our objection to NYC DCA's attempt to regulate educational practices contrary to its scope of authority
- Our members' history and impact in New York City and its communities
- The current regulatory structure of higher education in New York State and at the federal level, including the role of accrediting entities approved by U.S. Secretary of Education
- Our concerns with the NYC DCA proposed rules

I. NYC DCA exceeds its conferred authority by attempting to regulate activities of educational institutions outside its jurisdiction.

All APC member institutions support fair regulations that are evenly applied to all colleges and universities and help ensure student success and academic rigor. Our institutions support many of the policy recommendations highlighted in NYC DCA's recent report,[1] including increased state and federal regulations and disclosures applicable to all sectors and institutions of higher education; however, as NYC DCA acknowledges in its report, many of these recommendations "would require action on the part of New York State or the federal government."[2] NYC DCA cannot take these actions in its own right because, quite simply, NYC DCA is not empowered to regulate higher education – NYC DCA is empowered to regulate a narrow, defined list of trades, industries, and businesses required to hold licenses under New York City law and certain State laws.[3] These businesses under NYC DCA jurisdiction are limited to a variety of merchants of consumer goods and services, including retail cigarette dealers, pawnbrokers, ticket sellers, bingo operators, laundries, locksmiths, general vendors, purveyors of meats and perishable foods, and other businesses trading in goods or services intended for personal or household use.[4] NYC DCA is not empowered to regulate the provision of a college education because education has never been considered a mere consumer good or service under State and federal laws. **Accordingly, the regulation of degree-granting institutions of higher education is beyond the authority of the Department of Consumer Affairs entirely. Further, even if education were within NYC DCA jurisdiction, higher education is uniformly and comprehensively regulated at the State and federal level and, therefore NYC DCA regulations would be preempted by existing regulatory frameworks.** As NYC DCA points out in its report, issues such as the student loan debt crisis are national problems:[5] National student loan debt totals over $1.5 trillion and affects over 44 million Americans[6] – problems of this scale and severity could not be solved by NYC DCA alone, even if it were empowered to do so.

In short, like all other institutions of higher education in New York State, **APC member institutions are colleges, not businesses**. As such, they remain outside NYC DCA's regulatory authority and it would be unfair, a usurpation of regulatory authority, and misleading to the public for NYC DCA to treat them like businesses when neither New York State nor federal regulators do so.

[1] *See* Student Loan Debt Distress Across NYC Neighborhoods: Public Hearing and Policy Proposals, NEW YORK CITY DEPARTMENT OF CONSUMER AFFAIRS, February 2019, https://www1.nyc.gov/assets/dca/downloads/pdf/partners/Research-StudentLoanDebtDistressAcrossNYCNeighborhoods-PublicHearingPolicyProposals.pdf.

[2] *Id.* at 2.

[3] The New York City Administrative Code empowers NYC DCA to license "certain trades, businesses, and industries" "engaging in licensed activities" under Chapter 2 of the Consumer Affairs section of the Code.

[4] *See* N.Y.C. ADMIN. CODE § 20-201 et seq. for a full list of such businesses under NYC DCA jurisdiction. See also N.Y.C. ADMIN. CODE § 20-701, defining "consumer goods, services, credit, and debts" as those "which are primarily for personal, household, or family purposes."

[5] *See* Student Loan Debt Distress Across NYC Neighborhoods, *supra* note 1, at 7 ("Scale of the Student Loan Debt Problem").

[6] Zack Friedman, *Student Loan Debt Statistics in 2018: A $1.5 Trillion Crisis*, FORBES, June 13, 2018, https://www.forbes.com/sites/zackfriedman/2018/06/13/student-loan-debt-statistics-2018/#3fb363647310.

Before I further explain our concerns about the proposed rule, I feel very strongly that I must set the record straight about our longstanding history in New York State, the impact and role our member colleges play in New York City, and the regulatory structure under which they exist.

II. History and Background of APC and Its Member Colleges

Founded in 1978, the Association of Proprietary Colleges (APC) represents 12 degree-granting proprietary colleges on 23 campuses across New York State. APC consults regularly with State and federal decision makers and advocates in favor of legislation and policies that support the goals of higher education and protect the interests of our members' students. Specifically, APC and our member colleges have advocated for changes to federal student financial aid programs (commonly referred to as "Title IV" programs) that would help alleviate student debt, increases to federal and state oversight to protect students from fraud and abuse, and regulations applicable to all colleges and universities that would require meeting specific student outcomes in order to be eligible to participate in federal or state loan, grant, and scholarship programs.

APC member institutions have a common commitment to educational excellence, access, and affordability and they have a long history of producing strong outcomes for students of diverse backgrounds. Six of our twelve members are located in New York City:

- Berkeley College – Established 1931 – Located in Manhattan and Brooklyn
- LIM College – Established 1939 – Located in Manhattan
- Monroe College – Established 1933 – Located in the Bronx
- Plaza College – Established 1916 – Located in Queens
- School of Visual Arts – Established 1947 – Located in Manhattan
- Swedish Institute – Established 1916 – Located in Manhattan

I would direct your attention to Exhibit A of the Appendix for further detail regarding our member institutions' backgrounds and student outcomes.

III. Current Regulatory Structure

The notice of proposed rulemaking by the New York City Department of Consumer Affairs makes substantive claims about the proprietary institutions that would be burdened by these rules without any clear factual basis and, in fact, in the face of clear evidence to the contrary. For instance, the introduction to the proposal repeatedly refers to these schools as "unregulated" and "subject to no direct oversight or regulation by the government" – a claim which is false and deceptive.

The proposal's "Statement of Basis and Purpose" states that the purpose of these proposed rules is to "address problems experienced by consumers when they seek to enroll or are already enrolled in for-profit schools that are not licensed by the New York State Education Department or accredited by the New York State Board of Regents." It is simply disingenuous of the Department of Consumer Affairs to claim that for-profit institutions exempt from the licensing requirements of New York State Education Law § 5001 with accreditation from a body other than the New York

State Board of Regents are entirely unregulated. Moreover, NYC DCA's proposed rules speciously focus on institutions under the oversight of only one regulatory unit within the New York State Education Department, rather than recognizing the broad oversight authority and regulatory framework imposed by the New York State Board of Regents and the New York State Commissioner of Education.

As an initial matter, the New York State Board of Regents is responsible for overseeing all educational activities within the State. The Regents preside over The University of the State of New York (USNY),[7] which is comprised of all institutions of higher education in New York State, and preside over the New York State Education Department and all of its programs and activities. The Commissioner of Education reports to the Board of Regents. The Board of Regents is empowered to promulgate its own regulations, and the Board has final approval of any regulations promulgated by the State Education Department. The institutions subject to licensure under Education Law § 5001 are non-degree proprietary institutions overseen by the New York State Education Department. All degree-granting institutions (i.e., colleges and universities, proprietary and otherwise) are subject to their own rigorous permissions and approvals, including those for permission to operate, authority to grant degrees, and approval of each and every academic program proposed to be offered, all likewise overseen by the New York State Education Department. In other words, there are no colleges in New York State that are unregulated, because all colleges in New York are part of the University of the State of New York (USNY), fall under the purview of the Board of Regents and the Commissioner of Education, and are regulated under numerous regulations and rules of both the Regents and the Commissioner, including the stringent programmatic approval requirements set forth in 8 NYCRR § 52.1 et seq. (more commonly referred to simply as "Part 52").[8] In addition, all colleges and universities in the State, proprietary and otherwise, who elect to participate in federal Title IV student financial aid programs are voluntarily accredited by at least one nationally recognized accrediting agency approved by the U.S. Department of Education – thereby subjecting themselves to additional regulation and oversight both by approved non-governmental entities and by federal regulators.

Under New York State law, our institutions are regulated as colleges, not businesses. As colleges, the New York State Education Department's Office of College and University Evaluation ("OCUE"), Office of Professions ("Professions"), and Office of Higher Education ("OHE") all have oversight of proprietary degree-granting institutions. Accordingly, our colleges must abide by all requirements related to granting degrees and ensuring quality of academic programs offered to students, and programs leading to licensure in certain occupations (e.g., teaching, nursing, dental assisting, massage therapy) are required to meet all licensure qualifying requirements to ensure students who graduate from those programs will be eligible for a license after graduation. In addition, online academic programs are subject to a higher level of scrutiny and any institution providing online programs is required to receive approval from the State Education Department pursuant to the State Authorization Reciprocity Agreement (SARA) to offer the program to students residing both in and outside New York State.

[7] Not to be confused with the State University of New York (SUNY).
[8] *See* Appendix Exhibit B: Comparison of Criteria for Voluntary Regents Accreditation vs. Mandatory Program Authorization.

One of the most important roles of the Board of Regents is its review and approval of all academic programs offered by degree-granting institutions of higher education. This process, more commonly referred to as "program registration," is the State Education Department's "chief means to ensure that colleges, universities, and professional schools maintain quality standards."[9] Whenever a degree-granting institution wishes to offer a new academic program to its students, it first must seek approval from the Board of Regents prior to enrolling any students. The program approval process entails fully vetting a program to ensure sufficient financial resources are available to support the proposed curriculum, faculty have the appropriate qualification and credentials to teach the academic subjects covered, the curriculum and syllabi are suitably rigorous, there is demand for the program, and that the institution is consistently providing a quality education that produces satisfactory results prior to a program being approved.

In addition to its role in program registration, the Board of Regents has been recognized by the U.S. Department of Education as an institutional accrediting agency for degree-granting institutions of higher education for the purposes of establishing institutional eligibility to participate in federal programs, such as Title IV student financial aid.[10] The Regents' role as an accreditor is much smaller than its role in program registration: Unlike program registration, seeking Regents accreditation is entirely voluntary and, to date, only 15 of New York State's 255 degree-granting institutions of higher education are Regents-accredited, most of which are specialized institutions with limited academic programming, such as museums and hospitals.[11] The vast majority of New York State's degree-granting institutions of higher education are accredited by an accrediting agency other than the Board of Regents,[12] such as the Middle States Commission on Higher Education (MSCHE) or specialty accreditors focused on accrediting colleges offering certain types of programs, such as nursing. The NYC DCA proposed rules are, therefore, both arbitrary and inherently flawed in that they would capture the many degree-granting institutions accredited by an entity other than the Regents. Accreditation – by *any* accrediting entity – inherently subjects colleges to additional scrutiny, requirements, and standards to meet on top of the State Education Department's requirements. Most APC member colleges are not only institutionally accredited by MSCHE but also hold additional programmatic

[9] Program Registration Guidance, NEW YORK STATE EDUCATION DEPARTMENT OFFICE OF COLLEGE AND UNIVERSITY EVALUATION, http://www.nysed.gov/college-university-evaluation/introduction.

[10] The New York State Board of Regents is the only government entity recognized by the U.S. Department of Education as an institutional accrediting agency. The other thirteen recognized accrediting agencies include the Middle States Commission on Higher Education, New England Commission of Higher Education, Northwest Commission on Colleges and Universities, Western Association of Schools and Colleges, and Southern Association of Colleges and Schools, among others. *See* Institutional Accrediting Agencies, U.S. DEPARTMENT OF EDUCATION, https://www2.ed.gov/admins/finaid/accred/accreditation_pg6.html.

[11] The fifteen New York State institutions voluntarily accredited by the Board of Regents include the American Museum of Natural History, Holy Trinity Orthodox Seminary, Memorial Sloan-Kettering Cancer Center, Memorial College of Nursing, Mount Sinai Beth Israel School of Nursing, Samaritan Hospital School of Nursing, and The Salvation Army College for Officer Training, among others. *See* Directory of Colleges and Universities Accredited by the New York State Board of Regents and Commissioner of Education, NEW YORK STATE EDUCATION DEPARTMENT, http://www.nysed.gov/college-university-evaluation/directory-colleges-and-universities-accredited-new-york-state-board.

[12] *See* Database of Accredited Programs and Institutions, U.S. DEPARTMENT OF EDUCATION, https://www2.ed.gov/admins/finaid/accred/accreditation_pg4.html. MSCHE accredits over 200 colleges and universities in New York State, including each and every SUNY and CUNY college and university.

accreditations regulating their individual programs. All of these accreditations require ongoing reporting and disclosure requirements, site visits, self-studies, and time and investment from faculty and staff. Institutions are required to notify and seek approval from their accreditors if programs change or if certain substantial events occur at their institution, such as moving to a new location, establishment of a branch campus, and change of ownership.

In addition, as with all institutions eligible to participate in federal and State student loan, grant, and scholarship programs, APC member institutions are subject to oversight by the U.S. Department of Education (USDOE) and the New York State Higher Education Service Corporation (HESC). This means all programs must be approved and in good standing in order for students to utilize their student aid at APC member institutions, and, like all colleges and universities in New York, results in additional scrutiny that includes financial and programmatic audits at both the State and federal levels. Internally, compliance with financial aid oversight standards requires significant coordination between our institutions' academic and financial aid departments in order to ensure students are enrolling in appropriate coursework, meeting minimum and maximum credit participation thresholds, and satisfying all other criteria required to receive aid. Both USDOE and HESC have the ability to terminate an institution's eligibility to participate in these critical programs if it fails to maintain compliance with federal and State requirements.

Further, all APC member colleges are subject to the federal Gainful Employment regulations, which require institutions to disclose program-level metrics, including graduation rate, program costs, loan debt, and licensure requirements. Because the Gainful Employment regulations have become a topic of intense debate, there is widespread public confusion and misinformation as to whether the Trump Administration has repealed the regulations or pulled back on oversight in other ways **– to the contrary, the Gainful Employment regulation's multiple program-level disclosure requirements remain in effect, and our institutions remain required to maintain compliance with those requirements in order to participate in federal student financial aid programs.**

As a last backstop, the New York State Attorney General has broad authority to protect consumers and is empowered to investigate and seek sanctions against any institution in New York State that is found to be committing fraud or undertaking predatory or deceptive practices.

In short, strong oversight of degree-granting proprietary colleges already exists. The six APC member institutions located in New York City are not only held to the same accountability measures and reporting requirements to which all other New York State institutions are held, but are further subject to the stringent accountability metrics and reporting requirements outlined by federal regulators and accrediting bodies such as the Middle States Commission on Higher Education (MSCHE), the Accrediting Commission on Career Schools and Colleges (ACCSC), and other accrediting bodies as appropriate for the programs offered.[13] Being held to the standards required by New York State, federal regulators, and our accrediting bodies ensures students attending our colleges are receiving a high quality, meaningful education and advances transparency of data on measures such as cost of attendance, graduation rates, and student loan default rates. New York State has a longstanding history of treating equally its four sectors of

[13] *See* Appendix Exhibit A: History and Background of APC Member Institutions in New York City.

higher education (SUNY, CUNY, independent non-profit, and proprietary), and the State's commitment to parity among all institutions has created a robust higher education system prioritizing quality of education and access for all New Yorkers.

IV. APC Concerns with the NYC DCA Proposed Rules

A. The proposed rule's definitions of deceptive trade practices are inconsistent with other existing standards and practices applicable to accredited degree-granting colleges, would harm students, and only serves the purpose of attempting to shoehorn normal educational practices into NYC DCA's jurisdiction.

The proposed rule would prohibit for-profit institutions from making false or misleading representations and using deceptive trade practices. As an initial matter, not only are institutions of higher education already prohibited by both State and federal laws from using deceptive practices and making false representations, such practices are contrary to the missions of the individual APC member institutions.

Second, while the proposed rule claims to serve the purpose of preventing harm to students, the activities that would be deemed by the proposal to constitute deceptive and misleading practices – including referring to salespersons or recruiters as counselors or advisors, discussing the transferability of credits earned, and initiating communication with prospective students more than twice per one week period – are legitimate, longstanding, and accepted educational practices which NYC DCA is apparently attempting to re-characterize in order to shoehorn educational activities within its jurisdiction. Defining these activities as "deceptive business practices" is inconsistent with federal and New York State regulations already in place, effectively requires degree-granting institutions to engage in the very conduct which the proposed rule purports to address, and would result in harm to students. For example:

<u>Proposed Rule § 5-52 (c) (7): Reclassifying admissions counselors as "salespeople"</u>

The proposal deceptively attempts to reclassify admission counselors as "salespeople" in an effort to bring the activities of institutions under NYC DCA's purview. However, as noted previously in these comments, the provision of a college education is not a retail transaction, an education is not a consumer good or service, and admissions counselors are not "salespeople." Salespeople sell a product without regard for consequences, whereas college admissions counselors receive training and possess intricate knowledge of admission requirements and student expectations for each academic program offered by an institution. Like admissions counselors at SUNY, CUNY, and independent non-profit colleges, these employees at proprietary colleges aid students in navigating the application process, including testing, interviews, application for financial aid, and selecting a schedule that works for their circumstances. In addition, our counselors dedicate a significant amount of time counseling students against beginning college coursework in situations where prospective students lack the necessary academic preparation. To refer to admissions counselors as "salespeople" is to downplay and crudely mischaracterize the critical role they serve in assisting students, especially students from low-income families and who are first-generation college attendees, is a contrived attempt to regulate a field that is entirely outside NYC DCA's authority and expertise, and has the potential to groundlessly alter the public's understanding of these practices from that of "counseling" to that of "sales."

Furthermore, the proposal reflects a lack of understanding of the current regulatory landscape in that it fails to acknowledge that existing federal regulations expressly forbid colleges and universities from paying admissions employees commissions or any compensation linked to enrollments – therefore, the activity NYC DCA attempts to "regulate" is, indeed, prohibited altogether at the institutions over which NYC DCA claims to now have authority.

Proposed Rule § 5-52 (c) (6): Limiting the number of contacts with prospective students to twice per week

As the admission process unfolds, there is constant communication between applicants and college staff prior to enrollment. These communications might pertain to a variety of issues, including next steps and necessary action, appointment reminders, and providing answers to previously raised questions. It is impractical and illogical to set a limit on the number of these contacts. For instance: At Plaza College, in order for a student to enroll, no fewer than four on-campus meetings between students and staff are required to complete the processes. Before a student actually begins their first day of class, he or she must complete some or all of the following actions, as particular to their desired academic program: Initial meeting and interview, attendance at a programmatic information session, academic placement testing and retesting (if applicable), scheduling of drug and background check (if applicable), required tour and/or meeting with program director, initial appointment with financial aid staff, additional appointments with financial aid staff, and student orientation. Limiting contact with applicants to twice in a one week period of time will cause counselors to consolidate their efforts and thus could result in miscommunication and loss of information being conveyed to each student.

In addition, limiting the amount of college-initiated contact with prospective students inhibits students' abilities to receive guidance and assistance from institutions. It is very typical, especially when an enrollment deadline is approaching or near the beginning of a semester for students to require additional assistance from an institution's admissions, financial aid, or academic counseling departments. It would be absurd to suggest that, in circumstances where students have questions or require support during the admission process, rather than reaching out to provide help, a college must tell students that it is incapable of assisting because it has already made contact twice in a single week. APC members are committed to helping students and firmly believe that imposing an arbitrary rule limiting contact is nonsensical and will be detrimental to students.

<u>Proposed Rule § 5-52 (b) (15): Transferability of credits</u>

The proposal provides that making false representations regarding transferability of academic credits, including representing that credits are transferrable when they are not, are deceptive trade practices. What the proposal fails to acknowledge is that, under existing State and federal law, the transfer of academic credits is entirely at the discretion of the receiving institution. Even within the CUNY and SUNY educational systems, no institutions is ever obligated to accept the academic credit awarded by another institution, as each institution makes an individualized, detailed assessment of whether a given curriculum or program of study is in harmony with its own academic programming. Again, this reflects that NYC DCA not only lacks a basic understanding of the current landscape of higher education practices, but also evidences NYC DCA's efforts to twist and stretch its authority in order to force educational activities within its scope of oversight.

B. The proposed rule is inconsistent with existing reporting and disclosure requirements, uses methodologies that would be confusing to students, and would result in the publication of false and misleading data, therefore requiring action contrary to the declared purpose of the rule.

The proposed rule would mandate that institutions disclose data on several student outcome measures, including total program costs, graduation rate, graduate placement rate, total placement rate, median time in which students complete each academic program, and median cumulative debt amount held by students. While we believe transparency is important, the information in question is both already required to be disclosed pursuant to other regulations – including the U.S. Department of Education's Gainful Employment disclosure requirements,[14] the New York State Education Department's institutional auditing requirements,[15] and institutional accrediting agency reporting requirements[16] – and readily and publicly available through other sources, such as the Financial Aid Award Information Sheet jointly prescribed by the New York State Department of Financial Services and the New York State Higher Education Services Corporation.[17] Most significant, however, is not that the NYC DCA's proposed data disclosures would be duplicative, but rather that the proposed methods of calculation would directly conflict with established reporting practices prescribed by the federal government, undermine public confidence in available data, and confuse students as to which published metrics are accurate.

The methodologies to calculate data for these disclosures are not only well-established, but are developed by experts in the field of higher education, student success, and statistical analysis. In

[14] *See* 34 CFR § 668.41.
[15] *See* New York State Higher Education Data Systems (HEDS) Instruction Manual 2018-19, NEW YORK STATE EDUCATION DEPARTMENT, Sept. 21, 2018, http://www.highered.nysed.gov/oris/Manuals%20and%20Procedures/2018-19%20HEDSManual%202-1_9_19_18_.pdf, at 12.
[16] *See, e.g.,* Appendix Exhibits D and E.
[17] *See, e.g.*, New York Financial Aid Award Information Sheet Template, NEW YORK STATE DEPARTMENT OF FINANCIAL SERVICES, https://www.dfs.ny.gov/docs/consumer/shopping_sheet/shopping_sheet_default.pdf, which is required by New York State Banking Law § 9-w to be provided to prospective students when responding to applications.

contrast, the NYC DCA's proposed calculation methodologies for graduation and placement rates are flawed in structure, developed by an entity with no expertise in these areas, and would cause widespread confusion by creating competing concepts of crucial metrics with no basis in logic.

i. Graduation rate

The proposed rule would require graduation rates to be calculated as follows:

> "Graduation rate" means the number of students who received certificates, diplomas, or degrees in the program during the latest two calendar years, divided by the number of students who enrolled in the program during the latest two calendar years. The graduation rate shall be determined within 180 days from the end of each calendar year.

This definition is flawed as a metric for all programs and is inconsistent with State and federal graduation rate disclosure requirements. As an initial matter, it should be noted that higher education data are historically reported on an academic year basis, not a calendar year basis, to federal, State, and accrediting entities alike. Requiring colleges to report data on a calendar year instead of an academic year is another attempt to re-characterize normal educational activities to better align with a business practice and the type of activities NYC DCA traditionally regulates.

Second, student outcome data is typically calculated on a cohort basis, meaning that a calculation for graduation or completion rate compares data for a given graduating class only against that same entering class of students. In other words, if you wanted to determine the percentage of students from the Class of 2020 graduating from their 4-year program, you need to know how many students first comprised the Class of 2020; in stark contrast, the NYC DCA's methodology amazingly purports to divine the graduation rate of the Class of 2020 without knowing the size of the class at enrollment.

Third, graduation rates are defined as the calculated percentages of students who graduate or complete their program within a specified timeframe. This metric is calculated by federal and State oversight entities[18] by dividing the number of students who completed their program within a specific percentage of its normal time to completion[19] by the number of students in the entering cohort.

The proposed methodology strays needlessly and significantly from these well-established standards, would result in our institutions publishing false and misleading information and would cause confusion for potential and current students.

[18] *IPEDS Survey Components: Graduation Rates*, National Center for Education Statistics, U.S. DEPARTMENT OF EDUCATION, https://nces.ed.gov/ipeds/use-the-data/survey-components/9/graduation-rates. *See also* Higher Education Trend Tracker, NEW YORK STATE EDUCATION DEPARTMENT, http://eservices.nysed.gov/orisre/NYStotalParams.jsp (citing the federal IPEDS survey results as a source for graduation rate data).

[19] Both the U.S. Department of Education and the New York State Education Department calculate graduation rates for students who complete in 100% and 150% of their programs' normal time to completion. In other words, for a bachelor's degree program normally taking 4 years to complete, an institution's published graduation rate will be two-fold, reflecting the number of students finishing in 4 years, as well as the number of students finishing in 6 years.

ii. Placement rate

Similarly, the proposed calculation of "Graduate Placement Rate" is described as follows:

> "Graduate Placement Rate" means the number of students obtaining full time (at least 32 hours per week), non-temporary employment in the field of study during the latest two calendar years for which the school has obtained verification, divided by the number of all students graduating from the program during the latest two calendar years. The graduate placement rate shall be determined within 180 days from the end of each calendar year.

Again, it should be noted that the NYC DCA's proposed calculation fails to match the academic year (not calendar year) basis reporting cycle historically used by federal, State, and accrediting entities alike, and further fails to utilize the cohort-based calculation logically demanded by such a metric.

In addition, the federal government requires accreditors to determine whether it is appropriate, based on the nature of an institution and its academic programs, to collect placement rate data,[20] and accepted placement rate calculations vary from accreditor to accreditor, with some accrediting agencies not finding value in the metric at all.

As with the graduation rate, the proposed methodology would result in our institutions publishing false and misleading information and would cause confusion for potential and current students.

Indeed, these two metrics are so counter to the existing norms and practices as required by federal and State regulators[21] that the proposed rule's requirements would effectively demand institutions to take actions and publish data that are misleading to students – therefore undermining NYC DCA's own declared purpose of the proposed rules and resulting in greater harm, not protection, for students.

[20] *See* 34 CFR 602.16 (a)(1)(i).

[21] The current data calculation methodologies for these metrics and others is used for data published by the U.S. Education Department on its public-facing student-focused databases, College Scorecard database and Integrated Postsecondary Education Data System (IPEDS), which allow students to compare institutions across a plethora of data points, and is likewise used by the State Education Department in its public-facing data publications. *See* College Scorecard, U.S. DEPARTMENT OF EDUCATION, https://collegescorecard.ed.gov; Integrated Postsecondary Education Data System (IPEDS), NATIONAL CENTER FOR EDUCATION STATISTICS, https://nces.ed.gov/ipeds; and Higher Education Data System (HEDS), NEW YORK STATE EDUCATIONAL DEPARTMENT, http://www.highered.nysed.gov/oris. In addition, these data are reported to federal regulators and to the public pursuant to the federal Gainful Employment regulations and to students directly in correspondence pursuant to New York State Banking Law § 9-w, both previously discussed herein.

V. In Conclusion

We thank the New York City Department of Consumer Affairs for the opportunity to express our concerns with this proposed rule and reiterate our request that **the proposed rules be modified and that degree-granting proprietary colleges be exempt from any rules or regulations put forward by the NYC DCA related to for-profit schools.**

We have consistently worked hard at the federal and State level to ensure students are protected, college remains affordable, and that rules and regulations benefit students or improve education quality. These proposed rules do not protect students nor do they ensure program or education quality. Moreover, we strongly believe these rules are beyond the authority and jurisdiction of NYC DCA.

Sincerely,

Donna Stelling-Gurnett

Donna Stelling-Gurnett
President
Association of Proprietary Colleges

Exhibits

Exhibit A:

History and Background of the Institutions

- Berkeley College
- LIM College
- Monroe College
- Plaza College
- Swedish Institute
- The School of Visual Arts

History and Background of APC Member Institutions Located in New York City:

Of APC's twelve member colleges, six are located in New York City. These six institutions have been serving students, on average, for 88 years and all six institutions were well-established at the time of the New York State Board of Regents' 1971 decision to allow select proprietary schools to become degree-granting colleges; in fact, LIM College, Monroe College, and the School of Visual Arts were among the first proprietary institutions to receive degree-granting authority the very next year. In expanding degree-granting authority to include proprietary institutions, the Board of Regents acknowledged that institutions with similar programs should be awarding the same credential. Accordingly, the Board of Regents did not create a separate pathway for proprietary schools to issue degrees, but rather applied the same criteria required to be met by public and independent not-for-profit colleges to obtain degree-granting authority. Since that time, the Board of Regents has made parity among its four sectors of higher education and their respective institutions a bedrock of its policies and continues to require all colleges and universities, regardless of sector, to meet the same standards and abide by the same regulations.

Most APC member colleges are privately held, family-owned institutions, handed down from generation to generation. Our six colleges located in New York City have a long history of producing strong outcomes for students of diverse backgrounds and working closely with key employers in industries essential to the New York City economy, including business, healthcare, fashion, and the arts.

Institution	Founded	Governance	Accreditation	Location
Berkeley College	1931	The Luing Family (second generation)	• Middle States Commission on Higher Education	Manhattan, Brooklyn
LIM College	1939	The Marcuse Family (third generation)	• Middle States Commission on Higher Education	Manhattan
Monroe College	1933	The Jerome Family (third generation)	• Middle States Commission on Higher Education • Accreditation Commission for Education in Nursing	Bronx
Plaza College	1916	The Callahan Family (fourth generation)	• Middle States Commission on Higher Education • American Dental Association Commission on Dental Accreditation	Queens
Swedish Institute	1916	Quad Partners (since 2008)	• Accrediting Commission of Career Schools and Colleges • Accreditation Commission for Education in Nursing	Manhattan
School of Visual Arts	1947	The Rhodes Family (second generation)	• Middle States Commission on Higher Education • National Association of Schools of Art and Design	Manhattan

Consider the additional points of pride for these six institutions:

Berkeley College

A leader in providing career-focused education since 1931, Berkeley College is institutionally accredited by the Middle States Commission on Higher Education and offers baccalaureate and associate degree programs, certificate programs, and non-degree professional courses at campuses in New York and New Jersey, as well as through Berkeley College Online®. Students can choose from more than 20 fields of study, including programs in accounting, financial services, international business, legal studies, and other fields that prepare students for success in the professional world. For six consecutive years, U.S. NEWS & WORLD REPORT has recognized Berkeley College as one of the Best Colleges for Online Bachelor's Degrees. In addition, a recent study by the Equality of Opportunity Project spearheaded by Harvard economist Raj Chetty concluded that Berkeley College is among the top colleges in the United States for overall student income mobility, ranking 9th out of 158 colleges in New York State for likelihood that a student's income will rise by two or more income quintiles after attending.[1]

Berkeley College has a longstanding commitment to the welfare and success of students who are active duty service members and veterans, as well as their families. Berkeley College supports the Post-9/11 G.I. Bill and is a participating institution in the federal Yellow Ribbon program, under which institutions of higher education voluntarily contribute additional funds towards covering the cost of student veterans' educations. Berkeley College also has partnered with the U.S. Department of Defense for all Military Tuition Assistance (MTA) programs and operates Veterans Resource Centers at six campuses and online, which aim to help student veterans acclimate to college life, connect with other student veterans, access specialized tutoring services, and achieve success in their academic and career pursuits. Berkeley College adheres to the terms of President Obama's Executive Order 13607, establishing principles of excellence for colleges serving service members and veterans, and supports the "8 Keys to Success" developed by the U.S. Department of Education and Department of Veterans Affairs to assist institutions in transitioning veterans and service members into classroom settings and ensure they receive the best possible educational experience..

LIM College

LIM College was founded in 1939 as the Laboratory Institute of Merchandising by Maxwell F. Marcuse, a retail executive and active proponent of higher education in NYC, who had the vision of establishing a program to train women for careers in retail management with a practical hands-on curriculum. In 2019, the College is proud to be celebrating its 80th anniversary of serving students and helping young women launch careers in some of the world's most exciting industries. The College has come a long way since its establishment, but remains true to its founding ideals: Since 2002, LIM College has been led by President Elizabeth S. Marcuse, the third-generation member of the College's founding family. Today, LIM College's academic programs are focused on the global business of fashion and its many related industries, and students can earn master's, bachelor's, and associate degrees in a variety of fashion- and business-focused areas. In 1977, LIM College became the first proprietary college to receive regional accreditation from the Middle

[1] *See* Economic Diversity and Student Outcomes at Berkeley College, THE NEW YORK TIMES, Jan. 18, 2017, https://www.nytimes.com/interactive/projects/college-mobility/berkeley-college-ny.

States Commission on Higher Education (MSCHE).

Located in the heart of New York City — the nation's fashion and business capital — LIM College provides students with innumerable opportunities for firsthand experience and professional development. The College is widely recognized as a pioneer in experiential education known for fostering a unique connection between real-world experience and academic study in business principles. The College has exceptionally strong ties to the fashion industry and works closely with our Fashion Industry Advisory Board members to continually fine tune and adapt our academic programs to meet the needs of employers and to deliver sought-after talent – making LIM College a strong economic driver and workforce pipeline for one of New York's most important industries. LIM College educates approximately 1,800 students annually and has over 10,000 alumni, most of whom work and live in New York, with many exceling in careers at top companies in their industries. LIM College's unique educational focus and required internship experiences built into the curricula results in high demand for its graduates: For example, over 90% of the undergraduate class of 2017 were employed in the fashion industry or related industries within nine months of completing their program of study.

For the 14th consecutive year, THE PRINCETON REVIEW has honored LIM College among those institutions that are "Best in the Northeast"[2] and, in 2017, THE BUSINESS OF FASHION's Global Fashion School Rankings placed LIM College as one of the Top 10 institutions in the world for graduate business education in fashion.[3] In 2015, the Brookings Institution recognized LIM College amongst the Top 10% of four-year "value-added" colleges nationally.[4]

Monroe College

Founded in 1933, Monroe College is a recognized leader in urban and international education. Among Monroe College's core values is a commitment to students and their accomplishments, which is exemplified by the College's initiatives to increase college access, affordability, and completion outcomes, especially among first-generation students. Monroe College educates close to 8,000 students each year, offering certificate, associate, bachelor's, and master's degree programs. The College's innovative Presidential Partnership Program enables 1,000 students from the Bronx, New Rochelle, Yonkers and surrounding communities – including 80 students without lawful immigration status – to attend Monroe College and receive their degree at no cost. This program has resulted in approximately 90% of participating students attending Monroe College with zero student loan debt. The few participating students who do incur student debt have done so for housing costs or other non-academic costs. The first cohort of scholarship students completed their program with a 75% completion rate. Monroe College's student outcomes are a particular point of pride for the institution: A student attending Monroe is 10 times more likely to graduate on-time than a student attending a local community college,[5] and the College's official

[2] LIM College, THE PRINCETON REVIEW, https://www.princetonreview.com/college/lim-college-1023731.
[3] Global Fashion School Rankings 2017: Graduate, Business, BUSINESS OF FASHION, https://www.businessoffashion.com/education/rankings/2017/business.
[4] Jonathan Rothwell, *Using Earnings Data to Rank Colleges: A Value-Added Approach Updated with College Scorecard Data*, THE BROOKINGS INSTITUTION, Oct. 29, 2015, https://www.brookings.edu/research/using-earnings-data-to-rank-colleges-a-value-added-approach-updated-with-college-scorecard-data/.
[5] Data published by the New York State Education Department reflects that the on-time graduation rate for students in associate degree programs at Bronx Community College is 2.8%, compared to 50.1% at Monroe College. *See*

three-year cohort default rate is 3.9%, which is among the lowest in New York State.[6] Monroe College credits its excellent student outcomes to its investment in student instruction, academic supports, and student services. In fact, the College spends less than 3% of its operating budget on marketing and advertising, dedicating the vast majority of its resources to academics and student support programs and services.

Plaza College

Plaza College has made a profound impact in the educational landscape of the Borough of Queens and its surrounding communities. Founded in 1916 by two New York City teachers, the institution has transformed in size, scope, and breadth to become a comprehensive college offering educational opportunities to a diverse population. Through four generations of family leadership, Plaza College has expanded its academic offerings, improved its outcomes, and enlarged its educational mission – all while remaining true to its founders' shared vision of providing a caring yet vibrant learning environment that challenges and maximizes each student's potential in order to realize their hopes and dreams for a better life through educational advancement. Plaza College prides itself on its career-focused approach to education featuring academic programs designed to meet the needs of students entering the workforce and employers seeking qualified professionals. Rooted in a tradition of excellence, Plaza College educates its students to compete and succeed in professional areas including allied health, business administration, dental hygiene, court reporting, and paralegal studies.

The School of Visual Arts

The School of Visual Arts (SVA) was founded in 1947 as the Cartoonist and Illustrators School (C&I). Originally a single purpose trade school with 35 students and 3 faculty members, in 1956, the School's name was changed from C&I to SVA and the curriculum was diversified: Fields of study in advertising, design, film, fine arts, and photography were added and, by 1965, SVA had established full four-year certificate programs in design and fine arts. In 1972, SVA was granted authorization by the New York State Board of Regents to confer the Bachelor of Fine Arts (B.F.A.) degree on graduates of approved programs, becoming the first proprietary college to be authorized to confer degrees at the baccalaureate level in New York State. In 1983, SVA was authorized by the Regents to confer the Master of Fine Arts (M.F.A.) degree upon graduates of approved graduate-level programs.

SVA has been accredited by the Middle States Commission on Higher Education since 1978 and by the National Association of Colleges of Art and Design since 1980. Today, the School of Visual Arts offers 11 undergraduate programs and 22 graduate programs, with its enrollment increasing from an inaugural class of 35 students to a student body of 4,390 students and its faculty growing

Graduation Rates, NEW YORK STATE EDUCATION DEPARTMENT, http://www.highered.nysed.gov/oris/gradrates/. Monroe College's on-time graduation rate for students in bachelor's degree programs is an even more impressive 64.8%. *See id.*

[6] The national average three-year cohort default rate is 10.5%. *Official Cohort Default Rates for Schools*, U.S. EDUCATION DEPARTMENT, Oct. 17, 2018, https://www2.ed.gov/offices/OSFAP/defaultmanagement/cdr.html. The New York State average three-year cohort default rate is 8.5%. *FY 2015 Official Cohort Default Rates by State/Territory*, U.S. EDUCATION DEPARTMENT, Aug. 18, 2018, https://www2.ed.gov/offices/OSFAP/defaultmanagement/staterates.pdf.

from just 3 to over 1,092 respected artists, scholars, and professionals. SVA students come from across the nation and around the globe, representing 46 states, 2 territories and 53 foreign countries.

The Swedish Institute

The Swedish Institute was founded in 1916 as the Swedish Institute of Physiotherapy and has the distinct honor of being the oldest continuously-operating massage therapy institution in the country. The Institute's founder, Theodore Melander, had a vision of massage therapy as one aspect of a holistic approach to wellness and, with that in mind, he developed a unique curriculum incorporating medical gymnastics, dietetics, exercise techniques, and physiotherapy. Graduates of the Institute's early academic program received a diploma in physiotherapy and practiced in hospitals, clinics, and private practice as physiotherapists.

In 1954, the Institute focused the curriculum exclusively on massage therapy, which was increasingly becoming a recognized profession. At that time, the professional title "massage therapist" was unheard of; graduates were known as masseuses and masseurs, and were required by the City of New York seek licensure to practice. As time passed, massage therapy became a recognized profession, and licensure and curricular requirements were incorporated into the oversight of the New York State Education Department. In 1998, the Institute was granted authorization to issue the Associate in Occupational Studies (A.O.S.) degree to graduates of its massage therapy program and, in 2008, expanded its degree program offerings to include nursing, surgical technologist, and other allied health programs. In 2003, the Swedish Institute received approval from the New York State Board of Regents to award the Bachelor of Professional Studies (B.P.S.) and Master of Science (M.S.) degrees. Since 2008, the Swedish Institute has worked to expand research opportunities for faculty and students, establishing new affiliations with Montefiore Hospital and collaborating on clinical studies regarding acupuncture and pain management with Albert Einstein College of Medicine and Beth Israel Medical Center.[7]

[7] *See* M. Diane McKee et al., *The ADDOPT Study (Acupuncture to Decrease Disparities in Pain Treatment): Feasibility of Offering Acupuncture in the Community Health Center Setting*, JOURNAL OF ALTERNATIVE AND COMPLEMENTARY MEDICINE, Sept. 2012, https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3429271/.

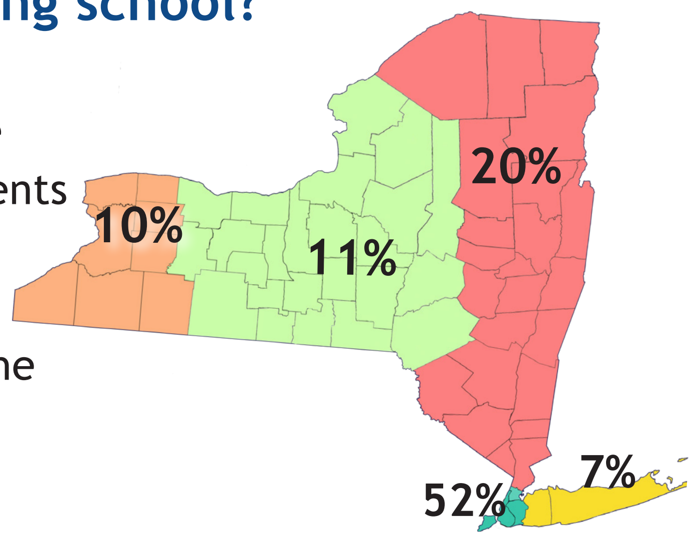
apc
Association of Proprietary Colleges

APC Fast Facts

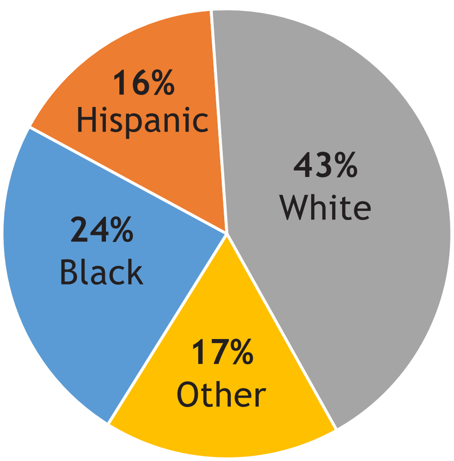
Excellence. Access. Affordability.

Where are APC students attending school?

There are **more than 26,000** students enrolled in APC member colleges that are located throughout New York State. Students are enrolled at campuses in Western NY, the Finger Lakes, the Southern Tier, the greater Capital Region, Long Island and the New York City metropolitan area.



Who are APC students?



69% of APC students are women

75% of APC students received a Pell award in 2017

APC member colleges educate more than **2,000** veterans living in communities across New York State.

9 out of 10 APC graduates stay in New York to live and work.

APC member colleges

conferred 7,670 certificate, associate, bachelor, master and doctorate degrees in 2017.

3,209 Associates's Degrees

188 Certificates

3,416 Bachelor's Degrees

857 Master's/ Doctoral Degrees

Source: IPEDS, U.S. Department of Education, 2016-2017 Academic Year

APC college graduates

enter the workforce with loan debt that is 28% lower than the state-wide average.

Average for APC member college graduates:

$22,357

Statewide average for college graduates:

$30,931

Source: US Department of Education, College Scorecard

Did You Know? Each year, APC member colleges provide credits to local high school students through jump start or middle school programs.

College Affordability

Maintaining affordability is a priority. In the 2017-18 academic year, average tuition at APC member colleges increased less than 2% and member colleges provided students more than $95 million in institutional aid.

$95 million in institutional aid

On-Time Associate Degree Graduation Rates in New York

Proprietary 26.8%

Independent 18%

CUNY 4.8%

SUNY 13.1%

Source: NYS Education Department, 2016 Data

Exhibit B:

Comparison of Criteria for Voluntary Regents Accreditation vs. Mandatory Regents Program Authorization

Comparison of Voluntary Regents Accreditation vs. Mandatory Regents Program Registration

The New York State Board of Regents is responsible for overseeing all educational activities within the State. The Regents preside over The University of the State of New York (USNY), which is comprised of all institutions of higher education in New York State,[1] and preside over the New York State Education Department and all of its programs and activities. The Commissioner of Education reports to the Board of Regents. The Board of Regents is empowered to promulgate its own regulations, and the Board has final approval of any regulations promulgated by the State Education Department. One of the most important roles of the Board of Regents is its review & approval of all academic programs offered by degree-granting institutions of higher education. This process, more commonly referred to as "program registration," is the State Education Department's "chief means to ensure that colleges, universities, and professional schools maintain quality standards."[2] In addition to this role, the Board of Regents has been recognized by the U.S. Department of Education as an institutional accrediting agency for degree-granting institutions of higher education for the purposes of establishing institutional eligibility to participate in federal programs, such as Title IV student financial aid.[3] The Regents' role as an accreditor is much smaller than its role in program registration: Unlike program registration, seeking Regents accreditation is entirely voluntary and, to date, only 15 of New York State's 255 degree-granting institutions of higher education are Regents-accredited, most of which are specialized institutions with limited academic programming, such as museums and hospitals.[4] The vast majority of New York State's degree-granting institutions of higher education are accredited by an accrediting agency other than the Board of Regents.[5] Notably, the federal government's recognition of the Regents as an accrediting agency means that the Regents have been "determined to be reliable authorities as to the quality of education or training provided by the institutions of higher education."[6] Therefore, while only a small number of institutions have voluntarily sought Regents accreditation, the Regents' program registration standards – which are mandatory and applicable to all degree-granting institutions in the State – should likewise be understand to provide a reliable, rigorous method of ensuring education quality.

[1] Not to be confused with the State University of New York (SUNY).
[2] Program Registration Guidance, NEW YORK STATE EDUCATION DEPARTMENT OFFICE OF COLLEGE AND UNIVERSITY EVALUATION, http://www.nysed.gov/college-university-evaluation/introduction.
[3] The New York State Board of Regents is the only government entity recognized by the U.S. Department of Education as an institutional accrediting agency. The other thirteen recognized accrediting agencies include the Middle States Commission on Higher Education, New England Commission of Higher Education, Northwest Commission on Colleges and Universities, Western Association of Schools and Colleges, and Southern Association of Colleges and Schools, among others. *See* Institutional Accrediting Agencies, U.S. DEPARTMENT OF EDUCATION, https://www2.ed.gov/admins/finaid/accred/accreditation_pg6.html.
[4] The fifteen New York State institutions voluntarily accredited by the Board of Regents include the American Museum of Natural History, Holy Trinity Orthodox Seminary, Memorial Sloan-Kettering Cancer Center, Memorial College of Nursing, Mount Sinai Beth Israel School of Nursing, Samaritan Hospital School of Nursing, and The Salvation Army College for Officer Training, among others. *See* Directory of Colleges and Universities Accredited by the New York State Board of Regents and Commissioner of Education, NEW YORK STATE EDUCATION DEPARTMENT, http://www.nysed.gov/college-university-evaluation/directory-colleges-and-universities-accredited-new-york-state-board.
[5] *See* Database of Accredited Programs and Institutions, U.S. DEPARTMENT OF EDUCATION, https://www2.ed.gov/admins/finaid/accred/accreditation_pg4.html.
[6] *Id.*

	NYS Board of Regents: Voluntary Regents Accreditation[7]	**NYS Board of Regents: Mandatory Program Registration**[8]
Purpose	To establish an institution's eligibility to participate in certain federal programs, including Title IV student financial aid	To ensure each academic program offered by a degree-granting institution, as well as all significant aspects of an institution's educational enterprise as it relates to such academic program, meets certain standards of quality, and to ensure institutional program offerings are consistent with the Regents Statewide Plan for the Development of Postsecondary Education
Who is required to do it?	No institution is required to seek accreditation by the Regents. Accreditation by any accreditor is entirely voluntary.	All degree-granting institutions of higher education in New York State
Criteria Required to Be Met: Quality of Education		
Administration	*Responsibilities*	
	• Responsibility for the administration of institutional policies and programs must be clearly established. • Within the authority of its governing entity, the institution must provide that overall educational policy and its implementation are the responsibility of the institution's faculty and academic officers. Other appropriate segments of the institutional community may share in this responsibility in accordance with the norms developed by each institution. • Instructors must make explicit at the beginning of each term the academic policies applicable to each course, including learning objectives and methods of assessing student achievement.	• Responsibility for the administration of institutional policies and programs must be clearly established. • Within the authority of its governing board, the institution must provide that overall educational policy and its implementation are the responsibility of the institution's faculty and academic officers. Other appropriate segments of the institutional community may share in this responsibility in accordance with the norms developed by each institution. • Instructors must make explicit at the beginning of each term the academic policies applicable to each course, including learning objectives and methods of assessing student achievement.

[7] See 8 NYCRR 4-1.4 [Standards of quality for institutional accreditation].
[8] See 8 NYCRR 52 [Registration of Curricula].

<table>
<tr><td></td><td>The institution must provide academic advice to students through faculty or appropriately qualified persons. The institution must ensure that students are informed at stated intervals of their progress and remaining obligations for completion.
The institution must maintain for each student a permanent, complete, accurate, and up-to-date transcript of student achievement at the institution. The document will be the official cumulative record of the student’s cumulative achievement at the institution. Copies must be made available at the student’s request (in accordance with institutional policies) or to agencies or individuals authorized by law to view such records.
The institution must not violate any State or federal statute which would demonstrate incompetence or fraud in the management of the institution, as judged by the Commissioner.</td><td>The institution must provide academic advice to students through faculty or appropriately qualified persons. The institution must ensure students are informed at stated intervals of their progress and remaining obligations for completion.
The institution must maintain for each student a permanent, complete, accurate, and up-to-date transcript of student achievement at the institution. This document will be the official cumulative record of the student’s cumulative achievement at the institution. Copies must be made available at the student’s request (in accordance with the institution’s policies) or to agencies or individuals authorized by law to review such records.</td></tr>
<tr><td></td><td colspan="2">Published policies</td></tr>
<tr><td></td><td>The institution must establish, publish, and enforce explicit policies regarding:
Academic freedom
The rights and privileges of full-time and part-time faculty and other staff members, working conditions, opportunity for professional development, workload, appointment and reappointment, affirmative action, evaluation of teaching and research, termination of appointment, redress of grievances, and faculty responsibility to the institution
Requirements for admission of students to the institution and to specific programs of study, requirements for residence, graduation awarding of</td><td>The institution must establish, publish, and enforce explicit policies regarding:
Academic freedom
The rights and privileges of full-time and part-time faculty and other staff members, working conditions, opportunities for professional development, workload, appointment and reappointment, affirmative action, evaluation of teaching and research, termination of appointment, redress of grievances, and faculty responsibility to the institution
Requirements for admission of students to the institution and to specific curricula, requirements for residence, graduation, awarding of credit, degrees or</td></tr>
</table>

	credit/degrees/other credentials, grading, standards of progress, payment of fees of any nature, refunds, withdrawals, standards of conduct, disciplinary measures, and redress of grievances.	other credentials, grading, standards of progress, payment of fees of any nature, refunds, withdrawals, standards of conduct, disciplinary measures, and redress of grievances.
Resources	*Facilities, equipment, and supplies*	
	• The institution must provide classrooms, administrative and faculty offices, auditoria, laboratories, libraries, audiovisual and computer facilities, clinical facilities, studios, practice rooms, and other instructional resources sufficient in number, design, condition, and accessibility to support its mission, goals, instruction, programs, and all other educational activities. • The institution must provide equipment sufficient in quantity and quality to support administration, instruction, research, and student performance.	• The institution must provide classrooms, faculty offices, auditoria, laboratories, libraries, audiovisual and computer facilities, clinical facilities, studios, practice rooms, and other instructional resources sufficient in number, design, condition, and accessibility to support the curricular objectives dependent on their use. • The institution must provide equipment sufficient in quantity and quality to support instruction, research, and student performance.
	Library and information resources	
	• The institution must provide libraries that possess, maintain, and provide access to print and non-print collections and technology sufficient in depth and breadth the support the mission of the institution and each program of study. • Libraries must be administered by professionally trained staff supported by sufficient personnel. Library services and resources must be available for student and faculty use with sufficiently regularity and at appropriate hours and must support the institution's mission and its programs of study. • The institution must ensure that all students receive instruction in information literacy.	• The institution must provide libraries that possess and maintain collections sufficient in depth and breadth to support the mission of the institution and each curriculum. • Libraries must be administered by professionally trained staff supported by sufficient personnel. Library services and resources must be available for student and faculty use with sufficient regularity and at appropriate hours to support the institution's mission and curricula.

	Fiscal capacity	
	• The institution must possess the financial resources necessary for consistent and successful accomplishment of its mission and objectives at the institutional, program, and course levels.	• The institution must possess the financial resources necessary to accomplish its mission and the purposes of each curriculum.
Faculty	*Competence & credentials*	
	• All members of faculty must have demonstrated their competence to offer the course and discharge the other academic responsibilities assigned to them by training, earned degrees, scholarship, experience, and classroom performance or other evidence of teaching potential. • For all programs leading to a certificate or undergraduate degree, all faculty members must hold at least a master's degree in the field in which they teach or a related field or must have demonstrated in other widely recognized ways (such as completion of relevant education, training, and/or experience) their competence in the field in which they teach. Upon the Commissioner's request, the institution must provide documentation confirming that any faculty members not holding a master's degree or who are not pursuing such graduate study have demonstrated competence in their field. • For each program leading to a bachelor's degree, at least one faculty member must hold an earned doctorate in an appropriate field, unless the Commissioner deems that the program is in a field of study for which other standards are appropriate. • For each program leading to a graduate degree, all faculty members must hold earned doctorates or other terminal degrees in the field in which they	• All members of faculty must have demonstrated their competence to offer the courses and discharge the other responsibilities assigned to them by training, earned degrees, scholarship, experience, and classroom performance or other evidence of teaching potential. • For each curriculum leading to a bachelor's degree, at least one faculty member must hold an earned doctorate in an appropriate field, unless the Commissioner determines that the curriculum is in a field of study for which other standards are appropriate. • For each curriculum leading to a graduate degree, all faculty members must hold earned doctorates or other terminal degrees in the field in which they teach or must have demonstrated in other widely recognized ways their special competence in the field in which they direct graduate students.

	teach or must have demonstrated in other widely recognized ways their special competence in the field in which they direct graduate students. Upon the Commissioner's request, the institution must provide documentation confirming that any faculty members not holding a doctorate or terminal degree have demonstrated special competence in their field.	
	Adequacy to support programs & services	
	• The faculty must be sufficient in number to ensure breadth and depth of instruction and proper discharge of all other faculty responsibilities. • In order to foster and maintain stability and continuity in academic programs and policies, the institution must have a sufficient number of faculty members who serve full-time. • For each program of study, the institution must designate a body of faculty who (along with the institution's academic officers) are responsible for setting curricular objectives, determining the means by which achievement of objectives is measured, evaluating the achievement of curricular objectives, and providing academic advice to students. • The ratio of faculty to students in each course must be sufficient to ensure effective instruction.	• In order to foster and maintain stability and continuity in academic programs and policies, the institution must have a sufficient number of faculty members who serve full-time. • For each curriculum, the institution must designate a body of faculty who (along with the institution's academic officers) are responsible for setting curricular objectives, determining the means by which achievement of objectives is measures, evaluating the achievement of curricular objectives, and providing academic advice to students. Faculty must be sufficient in number to ensure breadth and depth of instruction and the proper discharge of all other faculty responsibilities. The ratio of faculty to students must be sufficient to ensure effective instruction.
	Evaluation & professional responsibilities	
	• The institution must periodically evaluate the teaching and research of each faculty member in accordance with their responsibilities. New members of instruction staff must receive special supervision during their initial period of appointment.	• The institution must periodically evaluate the teaching and research of each faculty member in accordance with their responsibilities. The teaching of an inexperienced faculty member must receive special supervision during the initial period of appointment.

	• In addition to performing assigned teaching and administrative duties, the institution must ensure that each faculty member is allowed adequate time to broaden professional knowledge, prepare course materials, advise students, direct independent study and research, supervise teaching, participate in institutional governance, and carry out other academic responsibilities appropriate to his/her position in accordance with their responsibilities.	• In addition to performing assigned teaching and administrative duties, each faculty member must be allowed adequate time to broaden professional knowledge, prepare course materials, advise students, direct independent study and research, supervise teaching, participate in institutional governance, and carry out other academic responsibilities appropriate to his/her position in accordance with their responsibilities.
Programs of study / curricula & awards	*Integrity of credit*	
	• Each course offered for credit by the institution must be part of a general education requirement, a major requirement, or an elective in a program of study leading to a degree or certificate. • Credit towards an undergraduate degree must be earned only for college-level work. Credit towards a graduate degree must be earned only through work designed expressly for graduate students. The institution must strictly control the enrollment of secondary school students in undergrad courses, of undergrads in graduate courses, and of graduate students in undergrad courses. • The institution must ensure that credit is granted only to students who have achieved the stated objectives of each credit-bearing learning activity. • Learning objectives for each course must be of a level and rigor that warrant acceptance in transfer by other institutions of higher education. • In offering coursework through distance education or correspondence education, the institution must have processes in place to verify that the student who registers for such course or program is the same student who participates in and completes	• Each course offered for credit by the institution must be part of a general education requirement, a major requirement, or an elective in a program of study leading to a degree or certificate. • Credit towards an undergraduate degree must be earned only for college-level work. Credit towards a graduate degree must be earned only through work designed expressly for graduate students. The institution must strictly control the enrollment of secondary school students in undergrad courses, of undergrads in graduate courses, and of graduate students in undergrad courses. • The institution must ensure that credit is granted only to students who have achieved the stated objectives of each credit-bearing learning activity. • A semester hour of credit may be granted by an institution for fewer hours of instruction and study than as specified by Part 50.1(o) only where… o Approved by the Commissioner as part of a registered curriculum o The Commissioner has granted prior approval for the institution to maintain, and the institution has adopted, a statement of academic

	such course and receives the academic credit for the course, using methods that may include but are not limited to a secure log-in and passcode, proctored examinations, and other technologies and practices that are effective in verifying student identity. The institution must also use processes that protect student privacy and notify students of any projected additional student charges associated with the verification of student identify at the time of registration or enrollment.	standards defining the considerations establishing equivalency of instruction and study o In the event of a temporary closure of an institution due to a disaster, the Commissioner has granted approval for the institution to maintain, and the institution has adopted, a statement of academic standards defining the considerations establishing equivalency of instruction and study
	Program goals and objectives	
	• The goals and objectives of each program of study and the competencies expected of students must be clearly defined in writing. • Each program of study must show evidence of careful planning. The content and duration of programs of study must be designed to implement their purposes. • Course syllabi must clearly state the subject matter, learning objectives, and requirements of each course, and must be provided to students in such course.	• The objectives of each curriculum and its courses must be well-defined in writing. • Course descriptions must clearly state the subject matter and requirements of each course.
	Program length, credit, and other requirements	
	• For each program of study, the institution must ensure that courses will be offered with sufficient frequency to enable students to complete the program within the minimum time for completion, as follows: o Associate degree programs must be normally capable of completion in 2 academic years of full-time study (or its equivalent in part-time study) with at least 60 accumulated semester hours.	• For each curriculum, the institution must ensure that courses will be offered with sufficient frequency to enable students to complete the program within the minimum time for completion, as follows: o Associate degree programs must be normally capable of completion in 2 academic years of full-time study (or its equivalent in part-time study) with at least 60 accumulated semester hours.

	o Bachelor’s degree programs must be normally capable of completion in 4 academic years (or 5, in the case of 5-year programs) of full-time study (or its equivalent in part-time study) with at least 120 accumulated semester hours. o Master’s degree programs must normally require a minimum of 1 academic year of full-time graduate-level study (or its equivalent in part-time study) with at least 30 accumulated semester hours. Research or a comparable occupational or professional experience must be a component of each master’s degree program. The requirements for a master’s degree must normally include at least one of the following: passing a comprehensive test, writing a thesis based on independent research, or completing an appropriate special project. o Master of philosophy (M.Phil.) degree programs must require completion of all requirements for doctor of philosophy (Ph.D.) degree programs except for the dissertation, and must require that the student has been admitted to candidacy in a Ph.D. curriculum offered by the institution. o Doctoral programs must require a minimum of 3 academic years of full-time graduate study after the bachelor’s degree (or its equivalent in part-time study). Doctoral studies must include the product of a substantial report on original research, the independent investigation of a topic of significance to the field of study, the production of an appropriate	o Bachelor’s degree programs must be normally capable of completion in 4 academic years (or 5, in the case of 5-year programs) of full-time study (or its equivalent in part-time study) with at least 120 accumulated semester hours. o Master’s degree programs must normally require a minimum of 1 academic year of full-time graduate-level study (or its equivalent in part-time study) with at least 30 accumulated semester hours. Research or a comparable occupational or professional experience must be a component of each master’s degree program. The requirements for a master’s degree must normally include at least one of the following: passing a comprehensive test, writing a thesis based on independent research, or completing an appropriate special project. o Master of philosophy (M.Phil.) degree programs must require completion of all requirements for doctor of philosophy (Ph.D.) degree programs except for the dissertation, and must require that the student has been admitted to candidacy in a Ph.D. curriculum offered by the institution. o Doctoral programs must require a minimum of 3 years of full-time graduate-level study after the bachelor’s degree (or its equivalent in part-time study). Doctoral studies must include the production of a substantial report on original research, the independent investigation of a topic of significance to the field of study, the production of an appropriate creative work, or the verified development of advanced professional skills.

	creative work, or the verified development of advanced professional skills.	• For programs intended to fulfill the educational requirements for licensure as a teacher, school administrator or supervisor, school district administrator, or pupil personnel services professional, all curricula must include 2 hours of approved coursework or training regarding identification and reporting of child abuse and maltreatment. Such coursework or training must include information concerning physical and behavioral indicators, when and how a report must be made, other actions reporters are mandated or authorized to take, legal protections for reporters, and consequences for failing to report. • For programs intended to fulfill part of the requirements for licensure in a profession regulated by the State Education Department, see 8 NYCRR Part 52.3 et seq. for 43 sets of additional criteria to be met by academic programs determined to be appropriate to such professions and their fields of study.[9]

[9] These licensed professions include a variety of occupations, such as medicine, nursing, midwifery, pharmacy, dentistry, social work, mental health counseling, psychology, psychoanalysis, physical therapy, optometry, podiatry, acupuncture, nutrition & dietetics, audiology, veterinary medicine, dental hygiene, accountancy, geology, law, massage therapy, athletic training, and interior design, among others.

	Assessment of success in achieving goals and objectives	
	• The institution must have a written plan to assess at least every 5 years the effectiveness of faculty and students in achieving goals and objectives to promote improvement. Such assessment must include systematic collection, review, and use of quantitative and qualitative information about programs of study, including information that directly addresses learning outcomes, and must document actions taken to improve student learning and development.	
Support services	• Whenever and wherever the institution offers courses as part of a program of study, the institution must ensure that it provides adequate support services, taking into account its mission and the needs of its students. • Institutions that admit students with academic deficiencies must provide sufficient supplemental academic services to enable them to make satisfactory progress toward program completion.	• Whenever and wherever the institution offers courses as part of a curriculum, the institution must provide adequate academic support services.
Admissions	• The admission of students must be determined through an orderly process using uniformly applied published criteria consistent with the institution's mission. • Admissions must take into account both the capacity of a student to undertake a course of study and the capacity of the institution to provide the institution and other support the student needs to completion the program. • Among other considerations, the institution must take measures (as consistent with its mission) to increase enrollment in academic programs at all	• The admission of students must be determined through an orderly process using uniformly applied published criteria. • Admissions must take into account the capacity of a student to undertake a course of study and the capacity of the institution to provide the instructional and other support the student needs to complete the program.

	degree levels by persons from groups historically underrepresented in such programs. • For transfer students, when the sending institution is institutionally accredited for Title IV purposes by an accrediting agency recognized by the U.S. Secretary of Education, the receiving institution must not refuse a student's request for transfer of credit based solely on the source of accreditation of the sending institution.	
Consumer information / information for prospective & current students	The institution must provide the following information in all its catalogs: • Information regarding financial assistance available to students (including federal, State, institutional, and other sources), costs of attending the institution, the institution's refund policy, and the institution's instructional programs and other related aspects of the institution. If the institution uses standards of progress different from those utilized for State student financial aid programs, the institution must disclose them. • Cost of attending the institution with respect to each of the following cost categories: o Tuition and fees o Books and supplies o Room and board o Other living expenses • The institution's policy concerning refunds due to failure of students to complete an academic term for any reason, including the percentage or amount of tuition, fees, institution-operated room and board, and other assessments to be refunded after specified elapsed periods of time	The institution must provide the following information in all its catalogs: • Information regarding financial assistance available to students (including federal, State, and local institutional sources) • Costs of attending the institution with respect to each of the following cost categories: o Tuition and fees o Books and supplies o Room and board o Other living expenses • The institution's policy concerning refunds due to failure of students to complete an academic term for any reason, including the percentage or amount of tuition, fees, institution-operated room and board, and other assessments to be refunded after specified elapsed periods of time • Accurate descriptions of the institution's instructional programs, including the following: o A list of degree, certificate, and diploma programs registered with SED o A description of each academic program's program objectives, prerequisites, and requirements for completion

	• Accurate descriptions of the institution's instructional programs, including the following: o A list of degree, certificate, and diploma programs registered with SED o A description of each academic program's program objectives, prerequisites, and requirements for completion o A general description of instructional, laboratory, and other facilities directly related to each academic program o A list of regular resident faculty by rank and the department or major program area to which each faculty member is assigned, as well as an estimate of adjunct faculty and teaching assistance in each department or major program area o Information regarding student retention rates and graduation rates for at least full-time graduates o Summaries of employment outcomes, advanced study, and student professional and occupational licensing exam results compiled by or provided to the institution, organized by cohort year or date of exam and by major or curricular area • The institution's academic calendar, as well as any different calendar used for specific programs of study • The academic year in which each instructional offering (course) is expected to be taught • The institution's grading policy, as well as any different grading policy used for specific programs of study	o A general description of instructional, laboratory, and other facilities directly related to each academic program o A list of regular resident faculty by rank and the department or major program area to which each faculty member is assigned, as well as an estimate of adjunct faculty and teaching assistance in each department or major program area o Information regarding student retention rates and graduation rates for at least full-time graduates o Summaries of job placement and graduate school placement statistics compiled by the institution, where available • The academic year in which each instructional offering (course) is expected to be taught

	• The institution’s recruiting and admission practices, as well as any different practices used for specific programs of study • The institution’s process and criteria for accepting transfer of credit from other institutions, as well as a list of institutions with which the institution has established articulation agreements • Information regarding the institution’s student code of conduct and any disciplinary measures that may be imposed for violations, as well as a description of the institution’s student disciplinary process	
Assessment of student achievement	• The institution must prepare and implement a plan for the systematic assessment of its effectiveness in promoting the quality of student achievement and development. The assessment plan must include (but need not be limited to) graduation rates, retention rates, and (as relevant to institutional mission and programs) State licensing exam results and job placement rates. The plan may include other info important to the institution achievement of its mission, such as transfer rates and the subsequent educational success of its graduates. The institution must provide to SED on request evidence of its implementation of the plan and its effects on the quality of student achievement in relation to its mission and goals. • The institution must submit annually to SED the following: o Timely and accurate statistical information, as prescribed by the Commissioner o Additional specified reports, including data related to graduation rates, State licensing exam	

	results, job placement rates, and other evidence of the quality of student achievement o Record of compliance with its program responsibilities under Title IV, including student default rate data and the results of audits and program reviews o Records of student complaints and their outcomes o Other information pertaining to an institution's compliance with the standards prescribed, as determined by SED • In regard to graduation rates… o Associate degrees ▪ If the institution reports an associate degree completion rate more than 5 percentage points below the mean associate degree completion rate reported by all institutions in the State, the institution must prepare and submit a plan to improve student achievement as measured by graduation rates. Such plan must include strategies and timelines to achieve a completion rate within 5 percentage points of the mean. o Bachelor's degrees ▪ If the institution reports a bachelor's degree completion rate more than 5 percentage points below the mean bachelor's degree completion rate reported by all institutions in the State, the institution must prepare and submit a plan to improve student achievement as measured by graduation rates. Such plan	

	must include strategies and timelines to achieve a completion rate within 5 percentage points of the mean. • For institutions whose mission includes the preparation of students for employment, in regard to job placement rates… o 2-year colleges ▪ If the institution reports job placement rates more than 5 percentage points below the mean reported by all 2-year colleges in the State, the institution must prepare and submit a plan to improve student achievement as measured by job placement rates. Such plan must include strategies and timelines to achieve a job placement rate within 5 percentage points of the mean. o 4-year colleges ▪ If the institution reports job placement rates below 80%, the institution must prepare and submit a plan to improve student achievement as measured by job placement rates. Such plan must include strategies and timelines to achieve a job placement rate of at least 80%. o Graduate-only institutions ▪ If the institution reports job placement rates below 80%, the institution must prepare and submit a plan to improve student achievement as measured by job placement rates. Such plan must include strategies and timelines to achieve a job placement rate of at least 80%.	

Criteria Required to Be Met: Other Institutional Requirements		
Mission	An institution must have a clear statement of purpose, mission, and goals that are reflected in its policies, practices, and outcomes.	
Student complaints	• The institution must establish, publish, and consistently administer internal procedures to receive, investigate, and resolve student complaints related to the standards prescribed herein. • The institution may have informal means by which student can seek redress of complaints. • The institution must have a formal complaint procedure, which must include steps a student may take to file a formal complaint, reasonable and appropriate timeframes for investigating and resolving a formal complaint, a final determination of each formal complaint made by a person or persons not directly involved in the alleged problem, and assurances that no action will be taken against the student for filing the complaint. • The institution must maintain adequate documentation about each formal complaint and its outcome for a period of at least 6 years. Assessment of the outcomes of complaints must be a required component of any self-study required by the Regents for accreditation and must be a consideration in any review for accreditation or its renewal.	
Title IV compliance	The institution must have a procedure in place ensuring it is in compliance with its program responsibilities under Title IV and must maintain a record describing such procedure. The institution must maintain a record of its compliance with its program responsibilities under	

	Title IV over the prior 10 years, unless the Department determines there is good cause for a short records retention period. The record must include student default rate data provided by the institution annually to the Secretary, financial or compliance audits conducted annually by the Secretary, and program reviews conducted periodically by the Secretary. The institution must submit information from this record to the Department on a periodic basis, as determined by the Department.	
Teach-out plan	Upon the occurrence of any of the following events, the institution must submit for approval a teach-out plan: • The Board of Regents receives notification from the Secretary of Education that the Secretary has initiated emergency action against the institution or action to limit, suspend, or terminate the institution's participation in any Title IV program and that a teach-out plan is required • The Board of Regents acts to withdraw, terminate, or suspend the accreditation of the institution • The institution notifies the Board of Regents that it intends to cease operations or close a location that provides 100% of at least one program • Another state's licensing or authorizing agency notifies the Board of Regents that an institution's license or legal authorization to provide an educational program has been or will be revoked The institution's teach-out plan must ensure it provides for equitable treatment of students pursuant to criteria established by the Commissioner and the Regents and that the plan specifies additional charges (if any) and provides for notification to students thereof.	

	The institution must submit for approval any teach-out agreement entered into another institution or institutions that is part of its teach-out plan. In order to be approved, the teach-out agreement must be between or among institutions that are accredited or pre-accredited by a nationally recognized accrediting agency, ensure that the teach-out institution(s) has the necessary experience, resources, and support services to provide an educational program that is of acceptable quality and reasonable similar in content, structure, and scheduling to that of the closed institution, ensure that the institution will remain stable / meet all obligations to existing students / carry out its mission, and ensure that the teach-out institution(s) can provide students with access to the program and services without requiring them to move or travel substantial distances.	
Public disclosure of accreditation status	For institutions that elect to disclose their accreditation status, the institution must disclose such status accurately, identify in its disclosure the specific academic and instructional programs covered by that status, and provide information identifying the New York State Board of Regents and the Commissioner of Education as its institutional accrediting agency. This information must include the address and telephone number of the Department.	
Prohibitions		
False advertising	The institution's advertising must not be false, misleading, deceptive, or fraudulent, and must be consistent with New York State's General Business Law. Advertising and promotional material must not leave false, misleading, or exaggerated impressions of the institution, its personnel, its facilities, its courses and	

	services, or the occupational opportunities of its graduates. Advertising and promotional material must primarily emphasize the institution's educational services, not employment. Statements and representations in all forms of advertising must be clear, current, accurate, and restricted to facts that can be substantiated. Endorsements and recommendations must include the author's identity and qualifications, and must be used only with the author's consent; no remuneration of any kind is allowed for such endorsements or recommendations.	
Consequences for non-compliance		
	Institutions that fail to maintain compliance with the standards described herein will either face adverse action from SED (which could include denial of accreditation status, placement on probation status, withdrawal or termination of accreditation status, or other actions) or will be required to take appropriate corrective action to bring itself into compliance within a designated period of time (usually 1-2 years).	Institutions that fail to maintain compliance with the standards described herein will be denied registration or re-registration of the curriculum in question. Failure to register a curriculum, denial of registration of a curriculum, and revocation of registration of a curriculum will preclude an institution from publicizing the availability of such academic program and from recruiting or enrolling students in such academic program. In addition, the institution must cease operation of the affected curriculum and cooperate with SED to ensure existing students in such program are able to find avenues for completion with minimal disruption.
Other points of note		
		An institution may depart from Part 52 standards only with the prior written approval of the Commissioner and for the purposes of achieving particular objectives.

Exhibit C:

New York Financial Aid Award Information Sheet Template

Jointly prescribed by the New York State Department of Financial Services and the New York State Higher Education Services Corporation

Comments 46 MM / DD / YYYY

Name of College/University

Student Name, Identifier

Download

Costs in the 20xx-xx year

Estimated Cost of Attendance		**$ X,XXX / yr**
Tuition and fees	$ X,XXX	
Housing and meals	X,XXX	
Books and supplies	X,XXX	
Transportation	X,XXX	
Other educational costs	X,XXX	

Grants and scholarships to pay for college

Total Grants and Scholarships (**"Gift" Aid; no repayment needed**)		**$ X,XXX / yr**
Grants from your school	$ X,XXX	
Federal Pell Grant	X,XXX	
Grants from your state	X,XXX	
Other scholarships you can use	X,XXX	

What will you pay for college

Net Costs **$ X,XXX / yr**
(Cost of attendance minus total grants and scholarships)

Options to pay net costs

Work options

Work-Study (Federal, state, or institutional) .... $ X,XXX

Loan options*

Federal Perkins Loans	**$** X,XXX
Federal Direct Subsidized Loan	X,XXX
Federal Direct Unsubsidized Loan	X,XXX

*Recommended amounts shown here. You may be eligible for a different amount. Contact your financial aid office.

Other options

Family Contribution $ X,XXX / yr
(As calculated by the institution using information reported on the FAFSA or to your institution.)

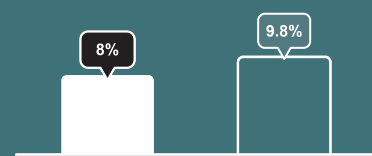
- Payment plan offered by the institution
- Parent PLUS Loan
- Military and/or National Service benefits
- Non-Federal private education loan

Graduation Rate

Percentage of full-time students who graduate within 6 years

Loan Default Rate

Percentage of borrowers entering repayment and defaulting on their loan



Median Borrowing

Students at UUS typically borrow $X,XXX in Federal loans for their undergraduate study. The Federal loan payment over 10 years for this amount is approximately $X.XXX per month. Your borrowing may be different.

Repaying your loans

To learn about loan repayment choices and work out your Federal Loan monthly payment, go to: http://studentaid.ed.gov/repay-loans/understand/plans

For more information and next steps:

Your College/University
Financial Aid Office
123 Main Street
Anytown, NY 12345
Telephone: (123) 456-7890
E-mail: financialaid@nyschool.edu

Customized information

Additional Loan Options

In addition to the loans and other options to pay outlined on page one, you are also eligible for the following loans for the 20XX-XX year:

Loans from your state	$ X,XXX
Loans from your school/institution	X,XXX

Be aware that the options to pay for your education outlined on page one, and the additional loan options above, are only for the 20XX-XX year. It is important that you complete a FAFSA each year by the requisite deadline and comply with all other requirements of your financial aid package.

Estimated Costs of Additional Years

In addition to the cost of attending for the first year, the following are the estimated costs of attendance for the additional academic years expected to attain a degree. Note that these are estimates and may be subject to change:

Estimated Total Cost of Year 2	$ x,xxx
Tuition and fees	$ x,xxx
Housing and meals	x,xxx
Books and supplies	x,xxx
Transportation	x,xxx
Other educational costs	x,xxx

Estimated Total Cost of Year 3	$ x,xxx
Tuition and fees	$ x,xxx
Housing and meals	x,xxx
Books and supplies	x,xxx
Transportation	x,xxx
Other educational costs	x,xxx

Estimated Total Cost of Year 4	$ x,xxx
Tuition and fees	$ x,xxx
Housing and meals	x,xxx
Books and supplies	x,xxx
Transportation	x,xxx
Other educational costs	x,xxx

Customized information from UUS

Glossary

Cost of Attendance (COA): The total amount (not including grants and scholarships) that it will cost you to go to school during the 2014–15 school year. COA includes tuition and fees; housing and meals; and allowances for books, supplies, transportation, loan fees, and dependent care. It also includes miscellaneous and personal expenses, such as an allowance for the rental or purchase of a personal computer; costs related to a disability; and reasonable costs for eligible study-abroad programs. For students attending less than half-time, the COA includes tuition and fees; an allowance for books, supplies, and transportation; and dependent care expenses.

Total Grants and Scholarships: Student aid funds that do not have to be repaid. Grants are often need-based, while scholarships are usually merit-based. Occasionally you might have to pay back part or all of a grant if, for example, you withdraw from school before finishing a semester.

Net Costs: An estimate of the actual costs that you or your family will need to pay during the 2014–15 school year to cover education expenses at a particular school. Net costs are determined by taking the institution's cost of attendance and subtracting your grants and scholarships.

Work-Study: A federal student aid program that provides part-time employment while you are enrolled in school to help pay your education expenses.

Loans: Borrowed money that must be repaid with interest. Loans from the federal government typically have a lower interest rate than loans from private lenders. Federal loans, listed from most advantageous to least advantageous, are called Federal Perkins Loans, Direct Subsidized Loans, Direct Unsubsidized Loans, and Direct PLUS Loans. You can find more information about federal loans at StudentAid.gov.

Family Contribution (also referred to as Expected Family Contribution): A number used by a school to calculate how much financial aid you are eligible to receive, if any. It's based on the financial information you provided in your Free Application for Federal Student Aid (FAFSA). It's not the amount of money your family will have to pay for college, nor is it the amount of federal student aid you will receive. The family contribution is reported to you on your Student Aid Report, also known as the SAR.

Graduation Rate: The percentage of students who graduate from an institution. This shows students who began their studies as first-time, full-time degree- or certificate-seeking students and completed their degree or certificate within 150 percent of "normal time." For example, for a four-year school, the graduation rate would be the percentage of students who completed that program within six years or less.

Loan Default Rate: The percentage of student borrowers – undergraduate and graduate – who have failed to repay their federal loans within three years of leaving a particular school. A low loan default rate could mean that the institution's students are earning enough income after leaving school to successfully repay their loans.

Median Borrowing: The amount in federal loans the typical undergraduate student takes out at a particular institution. It also indicates the monthly payments that an average student would pay on that amount using a 10-year repayment plan.

Customized information from UUS

Exhibit D:

Materials relevant to accreditation by the Middle States Commission on Higher Education (MSCHE)

- Explanation of relationship between MSCHE and federal & state government agencies
- MSCHE Handbook: Verification of Compliance with Accreditation-Relevant Federal Regulations
- MSCHE Guidelines: Good Practices for Accrediting in Higher Education

Middle States Commission on Higher Education
3624 Market Street, Philadelphia, PA 19104-2680. Tel: 267-284-5000. www.msche.org

Guidelines

Government Agencies and the Middle States Commission on Higher Education

Educational institutions, state agencies, federal agencies, and the Middle States Commission on Higher Education have unique, yet complementary roles in promoting and maintaining the quality and integrity of higher education–including an institution's responsibility for self-regulation, state agency authority for licensure and general oversight of educational institutions, and the Commission's role in peer-review evaluation on a voluntary basis.

The Commission has a long tradition of cooperative relations with state agencies in the Middle States region. It is sensitive to the concerns and interests of state agencies in the area of higher education, particularly in establishing minimum standards for operating educational institutions. As a prerequisite for accreditation, the Commission requires institutions to procure an appropriate license or charter from a state agency or other appropriate government agency where required by law. Moreover, the Commission acknowledges the rightful role of the state in such matters as protecting against fraud, violations of health and safety regulations, and the oversight of public funds.

In its relationships with state agencies, the Commission acts as a voluntary, non–governmental membership educational organization. It does not, and cannot, assume the statutory responsibilities of any state or other governmental agency.

State Agency Representatives on Middle States Evaluation Teams

The Commission's primary obligations are to institutions and to the public interest. Working relations with state education agencies in the Middle States region should be continued and strengthened without compromising the Commission's independence as a non-governmental organization.

State representatives are invited to accompany Middle States evaluation teams. In order to maintain a distinction between government agencies and the Commission, state representatives are considered to be working with, but not to be members of, Middle States evaluation teams. Representatives of state agencies normally receive copies of self-studies from the institutions to be evaluated and may participate in campus interviews and in team deliberations, but it is the prerogative of the team chair to determine the extent to which the representative contributes to discussions. The team chair and the state representative should discuss the scope and nature of the representative's involvement prior to the actual visit. However, a state representative does not share in the final determination of a team's recommendation with respect to accreditation.

The Commission expects the state to contact the institutional head regarding the role of the state representative in an evaluation visit and of any special relationship he or she has to the team or to the institution. By prior arrangement with the institution and the Commission office, a state representative may pursue a separate agenda in conjunction with a Middle States evaluation. All materials relating to the visit, including the self-study or other reports, should be obtained by the state directly from the institution.

The Commission may invite state representatives to its workshops and orientation programs for evaluators and maintain the practice of notifying the related state agencies of upcoming evaluations of institutions within their states. Periodically, Commission staff may meet with representatives of state agencies.

Collaborative Reviews with Governmental Agencies

The Commission's *Handbook for Collaborative Reviews* describes other types of cooperation, such as state agency reliance on Commission accreditation and reviews by different agencies that occur simultaneously, sometimes using the same self-study, team report, and visiting team. It is possible to execute a formal agreement between Commission and a governmental agency for joint or collaborative reviews.

Communication and Information Sharing with State Agencies

Institutions may share evaluation team reports and their responses to the reports with state agencies at the earliest feasible date, but it remains the institution's prerogative, except where explicitly required by law, to determine whether and/or when to share an evaluation team report and related responses with a state agency. The Commission's usual policy is to submit evaluation team reports only to the individual institutions. Once an accreditation action of the Commission is final, however, the Commission notifies the appropriate state agency of any final actions taken by the Commission regarding institutions that are licensed by the state.

The Commission will exert every effort to protect its confidential relationship with accredited and candidate institutions. However, in the interest of providing optimum assistance to educational institutions, sharing of non-confidential information is encouraged between the Commission and respective state agencies, particularly through informal communication between and among staff members.

Verification of Compliance with Accreditation-Relevant Federal Regulations

Middle States Commission on Higher Education

Verification of Compliance with Accreditation-Relevant Federal Regulations

Middle States Commission on Higher Education

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Fifth Edition

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Permission is granted to colleges and universities within the jurisdiction of the Middle States Commission on Higher Education to download this publication from www.msche.org and photocopy as needed for the purpose of compliance activities.

The *Verification of Compliance with Accreditation-Relevant Federal Regulations* is subject to change. The website will be updated when changes are necessary, and members will be notified.

Contents

Verification of Compliance with Accreditation-Relevant Federal Regulations

Introduction

The Middle States Commission on Higher Education (herein after MSCHE or the Commission), as a federally recognized accreditor, verifies institutional compliance with accreditation-relevant federal regulations developed by the United States Department of Education (USDE) in the Higher Education Opportunity Act of 2008 at the time of self-study evaluation and at any other time required by the Commission.

The Commission requires verification of institutional compliance in the following areas:

1. Student identity verification in distance and correspondence education
2. Transfer of credit policies and articulation agreements
3. Title IV program responsibilities
4. Institutional records of student complaints
5. Required information for students and the public
6. Standing with State and other accrediting agencies
7. Contractual relationships
8. Assignment of credit hours

Institutions must use the *Institutional Federal Compliance Report* for submission, which is available at www.msche.org. Institutions should provide evidence that will best demonstrate the institution's compliance. Documentation of policies and/or procedures must be (1) in writing, (2) approved and administered through applicable institutional processes, (3) accessible to constituents, and (4) reflect current practice. In the event one or more of these regulations do not apply to an institution, the institution shall indicate that fact and provide an explanation in the *Institutional Federal Compliance Report*. Otherwise, all applicant, candidate, and accredited institutions are expected to provide documentation for each of the areas.

The *Institutional Federal Compliance Report* and supporting evidence should be combined into a single, bookmarked PDF file. A hard copy of the report is not required and will not be accepted. The *Institutional Federal Compliance Report* should be uploaded in conjunction with all other self-study materials, no later than six weeks prior to the scheduled on-site Evaluation Visit.

If the Commission is unable to verify compliance with accreditation relevant federal regulations, the Commission will take action in accordance with its *Accreditation Actions Policy*.

1. Student Identity Verification in Distance and Correspondence Education

Federal regulations, in accordance with 34 CFR §602.17(g), require institutions that offer **distance education** or **correspondence education** to have processes in place through which the institution establishes that the student who registers in a distance education or correspondence education course or program is the same student who participates in and completes the course or program and receives the academic credit. Please refer to 34 CFR §602.3 for definitions of distance education and correspondence education.

In verifying the identity of students who participate in distance or correspondence education, 34 CFR §602.17 (g), institutions have the option of using methods such as:

(1) A secure login and pass code;
(2) Proctored examinations; and
(3) New or other technologies and practices that are effective in verifying student identity;

Institutions must make clear in writing that they use processes that protect student privacy and notify students of any projected additional student charges associated with the verification of student identity at the time of registration or enrollment.

Evidence to Demonstrate Compliance:

- Policies and/or procedures used to ensure student identity verification in distance or correspondence education courses;

- Policies and/or procedure(s) regarding the protection of privacy (i.e., FERPA) for students enrolled in distance and correspondence courses or programs, including password verification;

- Procedure(s) for notifying students about any projected additional charges associated with student identity verification. Evidence should include URLs, catalogs, student handbooks, and other locations of any alternative institutional website documenting required disclosures.

2. Transfer of Credit Policies and Articulation Agreements

In accordance with Commission policy *Transfer Credit, Prior Learning and Articulation* and federal regulation 34 CFR §602.24(e), the Commission must confirm that an institution has transfer of credit policies that: (1) are publicly disclosed in accordance with 34 CFR §668.43(a) (11); and (2) include a statement of the criteria established by the institution regarding the transfer of credit earned at another institution of higher education.

Further, 34 CFR §668.43(a) (11) states:

(a) Institutional information that the institution must make readily available to enrolled and prospective students under this subpart includes, but is not limited to-
  - (11) A description of the transfer of credit policies established by the institution which must include a statement of the institution's current transfer of credit policies that includes, at a minimum—
    - (i) Any established criteria the institution uses regarding the transfer of credit earned at another institution; and
    - (ii) A list of institutions with which the institution has established an articulation agreement.

Evidence to Demonstrate Compliance:

- Policies and procedures for making decisions about the transfer of credits earned at other institutions (regardless of modality). Demonstrate public disclosure of policy by URL, catalog, or other public location.

- Demonstrate public disclosure of the list of institutions with which the institution has established an articulation agreement by URL and other publication locations, if applicable.

3. Title IV Program Responsibilities

Federal regulations, in accordance with 34 CFR §602.16(a)(1)(x), require the Commission to review the institution's record of compliance with its program responsibilities under Title IV of the Act, based on the most recent Student Loan Cohort Default Rate data provided by the Secretary, the results of financial or compliance audits, program reviews, and any other information that the Secretary may provide to the agency.

Evidence to Demonstrate Compliance:

- Title IV Student Loan Cohort Default Rates for the most recent three years. If applicable, submit reports on compliance from the USDE in regard to the Cohort Default Rate, including any default reduction plans.

- Composite Ratios for the most recent three years (*Private and Proprietary institutions only*);

- Notification from state or other governmental agency confirming status as public institution (*Public institutions only*);

- Most recent USDE report on review of Title IV program, including institutional response;

- OMB Circular A-133 audit on federal programs for the most recent three years;

- Relevant correspondence from the USDE, such as any actions to limit, suspend, or terminate the institution's eligibility to participate in Title IV program, including institutional response, if applicable.

4. Institutional Record of Student Complaints

In accordance with Commission policy *Published Information*, the *Standards for Accreditation and Requirements of Affiliation*, and federal regulations 34 CFR §602.16(a)(1)(ix) and 34 CFR §668.43(b), the Commission must confirm that institutions have policies and/or procedures regarding student complaints.

<u>Evidence to Demonstrate Compliance:</u>

- Policy and/or procedures for student complaints

- Public location of contact information that the institution provides enrolled and prospective students for filing complaints with the institution's accreditor and with its State approval or licensing entity and any other relevant State official or agency that would appropriately handle a student's complaint.

5. Required Information for Students and the Public

In accordance with Commission policy *Published Information*, the *Standards for Accreditation and Requirements of Affiliation*, and federal regulation including 34 CFR §602.16, 34 CFR §668.41, 34 CFR §668.43, and 34 CFR §668.45, the Commission must confirm that institutions make available to students and the general public in catalogs, handbooks, and other publications, fair, accurate and complete information in the following areas:

- calendar
- grading
- admissions
- academic program requirements
- cost of attendance
- refund policies
- withdrawal policies
- student performance in academic programs
- completion and graduation rate information
- student employment after graduation
- performance on licensing exams

- retention rates
- placement and employment rates

In accordance with federal regulation 34 CFR §602.23(d), the Commission must verify that institutions provide clear and accurate information in their advertising and recruiting material about their accreditation status with the Middle States Commission on Higher Education.

Evidence to Demonstrate Compliance:

- URLs, catalogs and student handbooks, and other public locations of any alternative institutional website documenting required disclosures of graduation, completion, licensure pass rate and other data required by Student Right to Know, as well as policies on Student Academic Progress, withdrawal, leave of absence, and attendance.
- Documents and URLs for advertising and recruitment materials that are available to current and prospective students that show the accreditation status with the Commission and any other USDE approved agencies.

In addition, the institution should provide an explanation for how the institution verifies that the posted student outcomes data are accurate.

6. Standing with State and Other Accrediting Agencies

In accordance with Commission's *Policy for the Consideration of Actions Taken by Regional, National, and Specialized Accrediting Associations*, *Substantive Change Policy*, and the *Standards for Accreditation and Requirements of Affiliation*, and federal regulation 34 CFR §602.28, the Commission must verify that an institution is properly authorized or licensed to operate and is in good standing with each state in which it is authorized or licensed to operate. In addition, if the institution has status with a specialized, programmatic, or institutional accrediting agency recognized by the USDE, the Commission must verify that the institution is in good standing with the agency or agencies.

Evidence to Demonstrate Compliance:

- Names of other accreditors, program(s) it accredits, and year of next review;
- Documents and/or URLs available to current and prospective students that show the licensing or accreditation status with the state or other USDE approved agencies.
- Report from State or other accreditor if institution has been found noncompliant (including institutional response) within the last five years;

7. Contractual Arrangements

In accordance with the Commission policy, *Contracts by Accredited and Candidate Institutions for Education-Related Services*, and federal regulation 34 CFR §602.22(a)(2)(vii), the Commission is required to review and approve any contractual arrangements an institution enters into with an organization that is not certified to participate in the Title IV, HEA programs, and offers more than 25 percent of one or more of the accredited institution's educational programs. Any institution accredited by the Middle States Commission on Higher Education is held responsible for all activities carried out under the institution's name.

Further, in accordance with federal regulations 34 CFR §668.43(a) (12) and §668.5(c), the institution must make readily available to enrolled and prospective students a description of the written arrangements the institution has entered into with an organization that is not certified to participate in the Title IV, HEA programs, and offers more than 25 percent of one or more of the accredited institution's educational programs.

<u>Evidence to Demonstrate Compliance:</u>

- List of current contractual arrangements, including name of third-party and educational program(s) involved, and date of Commission approval
- Documents and/or URLs available to current and prospective students that describe contractual arrangements/written arrangements.

8. Assignment of Credit Hours

In accordance with the Commission's *Credit Hour Policy* and the *Standards for Accreditation and Requirements of Affiliation* and federal regulation 34 CFR §602.24(f), the Commission "must conduct an effective review and evaluation of the reliability and accuracy of the institution's assignment of credit hours." Specifically, the Commission must review the institution's policies and procedures for determining the credit hours awarded as well as the application of the institution's policies and procedures to its programs and coursework and make a "reasonable determination of whether the institution's assignment of credit hours conforms to commonly accepted practice in higher education" (34 CFR §602.24(f)(1)(ii)).

<u>Evidence to Demonstrate Compliance:</u>

- Policy and procedures for assignment of Credit Hour for all types of courses, disciplines, programs, credential levels, formats, regardless of modality;

- Course or program review procedures and sample approval documentation, as they relate to the credit hour;

- Process the institution utilizes to verify length of academic period and compliance with credit hour requirements through course scheduling.

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Policy Statement

Good Practice for Accrediting in Higher Education

The Middle States Commission on Higher Education follows these general guidelines in the review and accreditation of its members:

(a) arranges evaluations or other visits always in consultation with institutional officers;

(b) permits the withdrawal of a request for initial accreditation at any time (even after evaluation) prior to final action;

(c) recognizes the right of an institution to be appraised in light of its own stated purposes so long as those purposes demonstrably fall within, and adequately reflect, the expectations of institutions defined by the Commission in Characteristics of Excellence in Higher Education;

(d) considers a program or programs of study at an institution, including its administration and financing, not on the basis of a single predetermined pattern, but directly in relationship to the mission, operation, and goals of the entire institution;

(e) establishes criteria for accreditation in terms that are relevant to the quality of an institution, with respect for the principle of institutional uniqueness;

(f) uses only relevant qualitative and quantitative information in its evaluation process;

(g) assists and stimulates improvement in the educational effectiveness of an institution, and to this end is prepared to provide consultative assistance separate from the accrediting process;

(h) encourages sound educational experimentation and innovation;

(i) designs the evaluation process not only to obtain information for visiting evaluators but also to stimulate an institution to evaluate and improve itself;

(j) conducts evaluation visits by utilizing qualified evaluators under conditions that assure impartial judgment, including representation from the staff of other institutions knowledgeable about the type of institution to be visited;

(k) appoints visitors whom the institution does not reject for conflict of interest; however, the Commission has final authority in the formation of evaluation teams and follow-up visitors;

(l) cooperates with other accrediting organizations so far as possible in scheduling and conducting joint or collaborative visits with other accreditors, agencies, and organizations when an institution so requests;

(m) provides for appropriate consultation during an evaluation visit between and among the team members and the faculty and staff of an institution, including the chief executive officer, his or her designated representatives, and/or members of the governing body;

(n) provides opportunities for interviewing students during evaluation visits;

(o) provides the president of an institution being evaluated an opportunity to review a draft of the evaluation report prepared by the visiting team and to comment on its accuracy before it is submitted to the Commission;

(p) considers decisions relative to accreditation only after an institution has submitted a formal response to the substance of the evaluation report, and when the views of the evaluation team are adequately represented;

(q) regards the text of an evaluation report as confidential between an institution and the Commission, except as otherwise provided by applicable law, by accreditation standards or processes, or with the consent of the institution;

(r) permits an institution to make such public disposition of evaluation reports as it desires, provided they are not used to misrepresent its status;

(s) refrains from conditioning accreditation upon payment of fees for purposes other than membership dues or fees;

(t) notifies an institution in writing within 30 days regarding any accreditation decision;

(u) revokes accreditation only after advance notice has been given to an institution that such action is contemplated, and the reasons therefore, sufficient to permit timely rejoinder and to pursue established procedures for appeal and review;

(v) notifies the U.S. Department of Education, appropriate State agencies, and the public in accordance with Commission policy and federal and state regulation.

Regard for Decisions of States and Other Accrediting Organizations

In making accreditation decisions, the Middle States Commission on Higher Education adheres to these guidelines relative to the decisions of States and other accrediting organizations:

(1) The Commission does not accredit or grant candidacy to institutions that lack legal authorization under applicable State or foreign law to provide a program of education beyond the secondary level, if such authorization is required.

(2) The Commission does not accredit or grant candidacy, initial accreditation, or renewed accreditation to an institution if it is known that the institution is the subject of: a pending or final action brought by a State agency to suspend, revoke, withdraw, or terminate the institution's legal authority to provide postsecondary education in the state; a decision by an accrediting organization, which is recognized by the U.S. Secretary of Education, to deny accreditation or candidacy; a pending or final action brought by a recognized accreditor to suspend, revoke, withdraw, or terminate the institution's accreditation or candidacy, or probation or an equivalent status imposed by a recognized accreditor, except as noted below in (3).

(3) If the Commission grants candidacy or accreditation to an institution described in (2) above, the Commission provides to the U.S. Secretary of Education, within 30 days of its action, a thorough and reasonable explanation, consistent with its standards, why the action of the other accreditor does not preclude the Commission's grant of candidacy or accreditation.

(4) If the Commission learns that an institution that has candidacy or accredited status with the Commission is the subject of an adverse action by another recognized accreditor or has been placed on probation or equivalent status by another recognized accreditor, the Commission promptly reviews the accreditation or candidacy of the institution to determine whether the Commission also should take adverse action or place the institution on probation or show cause.

(5) The Commission shares with other appropriate recognized accrediting organizations and recognized State approval agencies information about the accreditation status of an institution and any adverse actions it has taken against an accredited or candidate institution.

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Exhibit E:

Materials relevant to accreditation by the Accrediting Commission of Career Schools and Colleges (ACCSC)

- ACCSC Handbook: Preparing for On-Site Evaluation – Best Practices
- ACCSC Handbook: ACCSC's Graduation & Employment Chart

ACCSC

Blueprints for Success:

Preparing for the On-Site Evaluation – Best Practices

An ACCSC Member Services Series

ACCSC

Blueprints for Success
A Member Services Series

Introduction

The ACCSC **Blueprints for Success** highlight best practices and provide guidance on some of the more technical areas of ACCSC-accreditation in the hopes to help accredited member schools to comply fully and accurately with the Standards of Accreditation, achieve institutional success, and ensure that students are well prepared to enter the workforce.

Please note that the ACCSC **Blueprints for Success** do not supersede applicable accrediting standards, are not intended to be prescriptive about the way an accredited school operates, and do not address all compliance elements required by a school to maintain good standing with ACCSC. Rather, the ACCSC **Blueprints for Success** provides a framework that can help a school to gain a better understanding of the expectations and rigors of the accreditation process as well as sample documentation that a school might consider in order to demonstrate compliance with accrediting standards.

Modules

1. Preparing a Comprehensive Response for Commission Consideration

2. Organizing an Effective Electronic Submission

3. **Preparing for the On-Site Evaluation – Best Practices**

4. ACCSC's Graduation & Employment Chart

Module 3
Preparing for the On-Site Evaluation - Initial and Renewal of Accreditation

The on-site evaluation is an essential component of an institution's responsibility to demonstrate compliance with accrediting standards and serves as the cornerstone of ACCSC's ability to continually ensure that a high quality education is being offered at its accredited institutions and those institutions seeking initial accreditation. Many institutions undertake this particular facet of their accredited status with confidence or apprehension…and sometimes both. This Blueprint, "Preparing for the On-Site Evaluation" provides an overview of best practices deployed by high performing institutions as they prepare for a renewal/initial accreditation visit from an ACCSC on-site evaluation team.

Purpose of the On-site Evaluation

At this point in the accreditation process, an institution has participated in a mandatory Accreditation Workshop; submitted an Application for Accreditation and received an acceptance letter from ACCSC staff; submitted the school's revised Application for Accreditation, Self-Evaluation Report ("SER"), and Occupation Specialist Information Package(s); and paid the required on-site evaluation fee. The next step of the accreditation process is for ACCSC to conduct an on-site evaluation at the school. For schools actively seeking accreditation, the purpose of the on-site evaluation is to:

- Verify data in the school's Application for Accreditation & Self-Evaluation Report prepared for Commission consideration;
- Seek additional information regarding the academic and ancillary activities and resources that support an institution's mission and educational objectives; and
- Develop an understanding and perform an assessment of how well the school meets its educational objectives and demonstrates compliance with the *Standards of Accreditation.*

During the on-site evaluation, a school will be evaluated according to all available information, including:

- Documentation provided by the school in order to demonstrate compliance with accrediting standards;
- Interviews and discussions with the administration, instructors, and other school officials;
- Surveys of and discussions with students, graduates, Program Advisory Committee members, and employers of graduates;
- Observations of classes, laboratories, admissions, student services, career services, as well as general management and administration of the school; and
- Documentation provided by the school to support reported student achievement data, including rates of student graduation, graduate employment, and licensure/certification pass rates.

Scheduling the On-Site Evaluation

Upon the school's submission of the revised Application for Accreditation and SER, which is due 6 months following the school's attendance at a mandatory Accreditation Workshop, ACCSC staff will contact the school to schedule the date of the on-site evaluation keeping in mind the following:

- Normally, the on-site evaluation will be scheduled to take place within 2-3 months following the SER due date;
- The date of the on-site evaluation should be a "regular school day" with students in attendance (i.e., not exam week, spring break, etc.);
- Key school personnel are expected to be available for interviews with on-site evaluation team members; and
- Once the date is established and agreed upon by school officials, the on-site evaluation date cannot change without the possibility of the school incurring additional costs.

Prior to the on-site evaluation, ACCSC provides written notification to the school of the names and affiliations of the team members and the school has the opportunity to clear the team in order to avoid any conflicts of interest.

Unusual Circumstances:

If there are any unusual events or circumstances falling on the day or week of the on-site evaluation (e.g. weather-related difficulties, scheduling conflicts, atypical class schedules, or other circumstances that may affect normal school operations), please notify the Commission Representative prior to the team's arrival so he/she can plan accordingly.

Preparation is Key!

In order to ensure a successful accreditation experience, school administrators should be proactive in preparing for the on-site evaluation.

Prepare Your Team

- Meet with key faculty and staff to explain the purpose of ACCSC's on-site evaluation, identify the roles of team members, and provide an overview of the general expectations of the on-site evaluation.
- Familiarize your staff with the Application for Accreditation and Self-Evaluation Report that forms the basis of the on-site evaluation team's review.
- Faculty and staff should be aware of ACCSC's Standards of Accreditation, particularly as those standards pertain to their roles within the school.
- Have all school staff arrive at the institution in accordance with their normal schedule on the days of the on-site evaluation.

- Identify one or two key staff members that can serve as liaisons to the on-site evaluation team during the visit.
- Set the school up for success by being prepared to provide "ready access" to information needed by the team as part of the review.

Prepare a Work Room

- Please prepare all items listed in Appendix B of the SER.
- Identify a separate room that provides a comfortable work-space based on the number of team members that will be participating in the on-site evaluation.
- Given that the team works with electronic materials, ensure there are adequate power strips and wireless Internet access (provide required access codes if necessary).
- Take the time to organize the on-site evaluation materials such as student rosters, lists of resources materials, school staff schedules, lesson plans, curricula and syllabi, Program Advisory Committee meeting minutes and contact information, etc. so that the information provided is easily understood.

On-Site Evaluation Team Members

ACCSC's Community of Volunteers support and enhance the Commission's work in a variety of ways, including their active involvement in the accreditation and on-site evaluation process. ACCSC dedicates significant resources to ensure that only qualified individuals carry-out accreditation responsibilities associated with peer review on-site evaluations. Before participating in an on-site evaluation, all of the members must participate in comprehensive training that focuses on accreditation standards and on-site evaluation expectations, policies, and procedures. Additionally, all on-site evaluation team members must have completed ACCSC's training program and agreed to and adhere to ACCSC's Code of Conduct policy.

The Team Leader is responsible for leading and directing the work of the on-site evaluation team and for conducting a thorough evaluation of the managerial and administrative capacity of a school seeking accreditation from ACCSC.

To be eligible for this role, a Team Leader must:

- Own, direct, or be a senior manager involved in the administrative operations of an ACCSC-accredited school that is in good standing with the Commission;
- Have significant experience in vocational education or post-secondary technical education; and

The Education Specialist conducts a thorough evaluation of all areas related to the educational delivery of programs including curriculum, learning resource system, faculty qualifications, and faculty professional development. For larger schools, or schools that offer a diverse array of programs, there may be more than one Education Specialist on the on-site evaluation team. Education Specialists also work closely with the Occupation Specialist to assess whether programs offered reflect current occupational trends and practices. To be eligible for the role, an Education Specialist must:

- Possess a Doctoral degree with three year's postsecondary teaching/administration experience; or
- Possess a Master's degree, with five year's postsecondary teaching/administration experience.

The Occupation Specialist(s) has five (5) years of experience working in a specific industry or trade (e.g., Plumbing, HVAC, Electrician, etc.). As a member of the on-site evaluation team, the Occupation Specialist(s) evaluates curricula, facilities, instructional resources, and equipment; provides feedback regarding current industry trends and workplace expectations; and helps to assess a training program's overall effectiveness in preparing graduates for entry-level employment in the field of study. There may be multiple Occupation Specialists on an on-site evaluation team depending on the number and diversity of programs offered at a school. As part of the accreditation process, ACCSC requests that the school identify, in accordance with Appendix C of the SER, three (3) to five (5) candidates per program (or group of related programs) who are independent of the school and free of any relationship with the institution beyond that which is typical of a networked professional in the community. ACCSC will vet and secure the participation of Occupation Specialists in a manner independent of the school.

The Distance Education Specialist – required only if the school offers a distance education program – evaluates the distance education program in order to make a determination that the school's delivery methods, instructional staff, resources, and equipment are in compliance with ACCSC Distance Education Standards. To be eligible for the role, a Distance Education Specialist must:

- Meet all the qualifications required of an Education Specialists; and
- Possess three years of experience in distance education with an emphasis on instructional design, teaching, or instructional technology.

The Commission Representative is an ACCSC staff member whose primary duties and functions during the on-site evaluation process include providing logistical and technical support and guidance to the on-site evaluation team. The Commission representative serves as a liaison between the school and the Commission during the accreditation process and provides feedback with respect to the application of standards at the practical level in the institution.

A State Oversight Agency Observer is invited to all ACCSC on-site evaluations to observe the ACCSC's process. ACCSC believes that participation by the state regulatory agency – as a member of the regulatory triad that oversees postsecondary education – helps to bolster confidence in accreditation, and provides an opportunity for the state regulator to learn more about the rigor of the accreditation process while learning more about the performance of a licensed institution in their state.

What to Expect

Day One

- Normally, the Team Leader, Education Specialist/Distance Education Specialist, and Commission Representative will arrive at 9:00 a.m. to begin a two-day on-site evaluation at the school. The Occupation Specialists will typically arrive separately on the morning of the first day.
    - Consider having a member of the school staff at the front door ready to greet the team; or
    - Ensure that the receptionist / front desk assistant is aware when the team is scheduled to arrive.
- Escort the team to a designated Work Room that has been set up with visit materials prior to the team's arrival.
    - Typically the team will need 5-10 minutes to settle-in and set up their materials before the initial tour begins.
    - This is the best time to make sure the team has enough power strips and access to internet.
- Provide a tour of the school.
    - Present an overview of the physical space so the team can get an understanding of the location of key staff, program areas, and student services.
    - Make the tour unobtrusive to the staff, faculty, and students. Do not feel the need to interrupt classes to introduce the team members. The team members will be out and about throughout the entire on-site evaluation process.
- The Team Leader will conduct an entrance interview with the school director to discuss the agenda for the day.
- The team will select files for review from the lists of students prepared by the school in advance of the team's arrival (outlined in Appendix B of the SER).
- The evaluation begins!
    - Over the course of the day the team will survey students; review files; observe classes; meet with administrators, staff, and faculty; verify student achievement data; and review the curricula, equipment, and facilities.
- Occupation Specialists typically depart after the completion of their reviews on the first day of the visit.
- Throughout the day, team members communicate with school officials regarding the team's progress and potential findings.

Evening Activities

- If the school offers evening programs, the team will be on-site to conduct student surveys & staff interviews
  - The team is looking to ensure that students in the evening programs have comparable access to student services, the learning resource system, career services, etc.
- The Team Leader will meet with school officials throughout the day in order to provide a "debrief" of the day's activities and to outline areas of focus yet to be completed.

Day Two

- The Team Leader, Education Specialist/Distance Education Specialist, and Commission representative will arrive at 9:00 a.m.
- Team members address outstanding issues and complete their notes and observations.
- The Exit Interview is typically scheduled for early afternoon on the second day of the on-site evaluation.

The Exit Interview

The Exit Interview provides an opportunity for the team to provide a summary of the findings from the on-site evaluation in relation to the school's compliance with accrediting standards. Given the amount of interaction between team members and school officials throughout the visit, by the time of the Exit Interview, school officials should already be aware of any potential findings of non-compliance.

- The Exit Interview is a courtesy and provides an initial draft summary of the on-site evaluation team's findings:
  - Findings are consistent with the information provided during the on-site evaluation and tied to a specific accrediting standard.
  - The Exit Interview provides the school with an opportunity to begin formulating its response to the TSR before receiving the final report.
- Two things a school is prohibited from doing during the Exit Interview:
  - The school cannot have legal counsel present.
  - The school cannot record the Exit Interview.
- The Exit Interview is not a time to argue with the team about the school's position.
- The Team Summary Report ("TSR") serves as the official record of the on-site evaluation.
- The school will have an opportunity to respond to the team's findings.
  - The TSR is generally issued within 60 days of the on-site evaluation.
  - The school will generally have 30-45 days to file its response.

Tips and Practical Advice

Pre-On-Site Evaluation: Success Tips

After attending the assigned ACCSC Accreditation Workshop, a school official should have an understanding of the Standards of Accreditation, the accreditation process and how to prepare your school's Application for Accreditation and the Self-Evaluation Report (SER). Keep in mind that the accuracy, reliability, and completeness of the Application and SER set the stage for a successful on-site evaluation process. Some important points to remember:

Application for Accreditation

- Often, due to the time lapse between submission of the original Application for Accreditation and when the on-site evaluation occurs, there are documents that expire or need updating to reflect some of the activities that have taken place at the school (e.g. insurance policy renewal, update to a state license, new catalog, recent Program Advisory Committee (PAC) meeting minutes).
  - This is the school's opportunity to prepare "updates" to the application so the on-site evaluation team has a more up-to-date understanding of the school's compliance efforts.
  - Also, a school should ensure that it addresses/answers all questions in the application, even those which do not apply, by indicating "N/A."
- Cross-reference the catalog and enrollment agreement to their respective checklists.
  - Catalog Checklist
  - Enrollment Agreement Checklist

  What does "Cross-reference" mean? This means that in addition to indicating on the actual Checklist the page on which the requested information can be found, <u>the Checklist Item # is also expected to be placed beside the information in the actual document.</u> Cross-referencing facilitates a more efficient review of the documents by the team.
- If the school is in the initial accreditation process, or otherwise elects to utilize the ACCSC Faculty Personnel Report (FPR) and Staff Personnel Reports (SPR), please ensure that all areas of the forms are complete. In particular:
  - Prior work experience must include reference to <u>both the month and the year</u> for each employer listed;
  - The Instructor Training section is to be fully completed with appropriate teacher training activities – reference to training that is not related to the specific occupation is not applicable.
- Review all current advertising for compliance – As part of the review of the school's Application for Accreditation, the on-site evaluation team will review all current advertising utilized by the school, including the school's website.
  - Review Section IV (B), Substantive Standards, Standards of Accreditation and the ACCSC Advertising of Accredited Status Exhibit.

Self-Evaluation Report (SER)

When preparing the SER, be direct, clear, and concise in describing the school's compliance efforts, services, and educational program offerings. The on-site evaluation team will be more concerned about the quality, accuracy, and reliability of the SER than it is with the number of pages provided.

- Involve all key school staff and faculty in the preparation of the SER.
  - At a minimum, every staff and faculty member should have an understanding of how the SER is applicable to his/her job responsibilities at the school.
  - This also provides an opportunity for a broad swath of scholl staff and faculty to learn about and participate in the accreditation process.
- The SER should accurately reflect the policies and procedures in place at the institution.
  - Do not submit anything that does not accurately reflect what is in use at the school and
  - Have documentation available to support the school's compliance with accrediting standards.
- Confirm that all issues noted in the school's application acceptance letter were corrected when the revised Application and SER were submitted.

SER Supporting Documentation

- Use Appendix B of the SER as a guide for preparing the Work Room with required documentation.
- Label the materials in the Work Room in an organized and understandable fashion.
- Ensure documentation is readily available and organized in a manner that allows prompt response to evaluator requests for supporting information.
- Keep in mind that documentation available in school files serves as the basis of the on-site evaluation team's verification of the accuracy of the SER and the school's compliance with accrediting standards.

Graduation and Employment Charts

The school's records management system (whether hard copy or electronic) should be organized in a way that facilitates the easy retrieval of documentation to support the reported rates of graduation and employment. Keep in mind, the on-site evaluation team will need ready access to the supporting documentation, including copies of student transcripts and records of initial employment, which correspond to the data recorded on each Graduation and Employment Chart.

Key points:

- The school must have a separate Graduation and Employment Chart for each program offered.
  - Keep in mind that due to the Graduation and Employment Chart reporting formula, programs with multiple schedules (e.g., full-time and part-time schedules) will have separate Graduation and Employment Charts.

- For each program's Graduation and Employment Chart, prepare a roster of students grouped by cohort start date.

  Students: Have copies of transcripts for all students categorized as "graduated" as well as copies of documentation for any student categorized as "unavailable for graduation."

  Graduates: Have documentation for all graduates classified as "further education" "unavailable for employment" and "employed in field."

  - Identify the categories for each student/graduate to be captured on the Graduation and Employment Chart by reviewing the Glossary of Definitions located via a "tab" on the Graduation and Employment Chart.

- Be sure to review ACCSC's Guidelines for Employment Classification and follow the instructions regarding the information required for graduates that are self-employed, in regular employment, or career advancement.

Independent Third-Party Employment Verification

Accrediting standards require that schools report accurate data to the Commission and that schools meet the established student achievement standards and maintain "verifiable records of initial employment."

- Thus, an on-site evaluation team will review the verification results from the independent third-party verification in order to assess if the student achievement data reported to ACCSC are accurate and supported by verifiable records.
- In cases where a graduate's employment could not be verified by the independent third-party, a school can present additional documentation to the on-site evaluation team to demonstrate that the employment classification is valid.
- If an on-site evaluation team does find that a school has not demonstrated compliance with accrediting standards due to the accuracy or validity of the data, the team will likely include a finding or a request for additional information in the Team Summary Report and the school will be required to respond to the Commission with supporting documentation to demonstrate that the student achievement data is accurate and verifiable.
- The Commission, not the on-site evaluation team, makes the final determination regarding a school's compliance with accrediting standards.

The Commission's requirements for the third-party verification of employment can be found in Section VII (C) of the SER.

- As a reminder, schools should not send the entire verification report to ACCSC when submitting the SER; rather, the school should only submit a summary of results in the format as prescribed in the SER.
  - Keep in mind that on the day of the on-site evaluation, the school must provide the on-site evaluation team with the **full report** from the independent third-party verifier, including a list of the students in the sample, the results for each student, and the reasons for those results.

During the On-Site Evaluation: Success Tips

After school officials take the on-site evaluation team on a brief initial tour of the campus, each member of the team will begin their evaluation. Day one will most likely consist of interviews with key staff and faculty; reviewing files of current students, graduates, and withdrawn/terminated students; reviewing backup documentation for the school's most recent Annual Report data; and surveying students.

File Review

Ensure that the on-site evaluation team will have ready access to current student, graduate, and withdrawn student files. The team will seek to ensure that the files are secured as required by accrediting standards and will randomly select files to verify the consistent application of the school's policies and procedures by reviewing information such as:

- Documentation that each student met all established admissions requirements prior to the school official executing the enrollment agreement;
- Documentation that demonstrates the students received copies of fully-executed enrollment agreements that are signed by students and the designated school official prior to starting class;
- Satisfactory progress evaluations, including records of grades and attendance;
- Documentation from advising sessions to show how the school's student services were applied;
- Copies of transcripts for graduates to show that each student met the conditions for graduation; and
- Copies of refund calculations for withdrawn/terminated students, to include evidence that the refund was processed in accordance with the school's established policies and as required by federal or state requirements.

Student Surveys

As part of the accreditation process, ACCSC will attempt to survey at least 25% of the student population. When possible, the student survey process will involve the electronic distribution of a web based student survey that is provided directly from ACCSC to students that are currently enrolled at the school.

- **Web-Based / Hard Copy Survey** – As part of the on-site evaluation, the ACCSC Commission Representative will work with school officials regarding the feasibility of distributing a web-based survey, or to distribute a hard copy survey.
- **Surveys During the Visit** – There are a variety of approaches used by on-site evaluation teams to survey students during the visit. The approach is often driven by the number of students in attendance and the logistics of the class schedule.
    - At times, the team will enter individual classrooms and survey students from each of the school's respective programs both in the day and evening schedules.

- Alternatively, the team may work directly with the school to gather students from a variety of programs into one room in order to complete the survey at one time (usually before or after a break).

Key Compliance Areas

As previously referenced, one of the key goals of the on-site evaluation is to facilitate the team's ability to develop an understanding and perform an assessment of how well the school meets its objectives and demonstrates compliance with the *Standards of Accreditation*. Because the Commission requires documented evidence of statements made by the institution, the team will spend considerable time reviewing written materials such as:

- Curriculum and lesson plans; minutes from PAC meetings; copies of employee and student handbooks; faculty credentials and professional development in personnel files; entrance examinations taken by applicants; and copies of service contracts for the institution's equipment.
- Some of the documentation previously found on paper may now be stored on computer disk (e.g., student ledgers, attendance records, and grades).
  - The team will typically ask to see the information "on-screen" but may ask for sample printouts when applicable.

There are a number of key compliance areas that will be examined by the on-site evaluation team during the visit:

Program Advisory Committee (PAC)

Schools should understand the basic requirements of Program Advisory Committees by reviewing *Section II (A)(5), Substantive Standards, Standards of Accreditation* and should take the time to review the Monograph: Maximizing Program Advisory Committees as well as the corresponding webinar.

In addition to the other mandatory requirements regarding PACs, the on-site evaluation team will seek to determine that:

- The school facilitated two meetings per year for each of the school's related program offerings;
- At least three employers/practitioners were in attendance at each meeting;
- PAC members discussed curriculum, student achievement, equipment and other key areas critical to a program's success; and
- Detailed minutes of PAC meetings for each of the school's related program offerings are maintained and available for the team's review.

Prior to the visit, gather and organize the agendas and PAC meeting minutes, preferably by program, and to ensure the team has ready access to the required documentation. If a school finds for the current cycle of accreditation that a PAC meeting has not been held, it will likely be a team finding of non-compliance.

Faculty Improvement Plan

ACCSC believes that the success of a school is directly related to the quality of its faculty and that by hiring and retaining qualified faculty, a school is able to strengthen the quality of its training program. According to accrediting standards, faculty must be trained in instructional methods and teaching skills and must engage in ongoing development of teaching skills as part of the school's plan for faculty improvement.

- During the visit, the school will need to provide faculty files that are organized to allow for easy access to evidence of academic credentials held by the faculty and proof that their respective prior work experience has been verified by the school.
- As part of the on-site evaluation process, the school must be able to document that each member of its faculty participates in professional development activities as described in the school's written Faculty Improvement Plan.
- The school may provide its own faculty training using in-house resources or utilize resources outside the school.
  - Outside Training – The school should maintain copies of conference/workshop agendas, certificates presented to faculty upon completion of workshop/conference, and any CEUs earned by the faculty member.
  - In-service training – The school should maintain documentation to show the focus/subject matter of the in-service, who attended, and the dates on which the training took place.
    - Documentation could include agendas and minutes; in-service training class outlines; and attendance rosters.

Institutional Assessment, Improvement, and Planning

The school must demonstrate that it engages in ongoing institutional assessment and improvement activities and planning appropriate to the size and scale of the school's operations and that support the management and administration of the school as well as the quality of education provided.

- During the on-site evaluation, the school should present a copy of its most recent Institutional Assessment and Improvement Plan ("IAIP") along with supporting documentation to demonstrate that the school has engaged in strategic planning initiatives identified in its IAIP.
  - Examples of documentation might include copies of purchase orders or invoices that show the school purchased new equipment or materials for the learning resource center, or copies of meeting minutes from staff meetings that focused on institutional strategic planning initiatives.
- Institutions are encouraged to review the ACCSC Monograph Series: Institutional Assessment and Improvement Planning.

Financial Stability and Responsibility

Accrediting standards require that the financial structure of the school is sound, with resources sufficient for the proper operation of the school and the discharge of obligations to its students. During the accreditation process, the school's most recent fiscal year-end financial statement will be evaluated at the Commission level.

- As part of the on-site evaluation, the school should prepare a copy of the current school budget with supporting documentation to show how school expenditures support of institutional improvement activities, such as the purchase of new equipment and training materials, as well as allocations made to support the learning resource system.
- The school should also provide the team with the most current copy of the school's insurance coverage binder.

Student Services

Accrediting standards require schools to remain attentive to their students' educational and other needs and to offer advising and counseling, graduate employment assistance, and procedures for handling student complaints.

- During the visit, the school should present the team with its manual of written policies and procedures for the delivery of its student services.
- Many of the policies are captured in the school's catalog.
  - Beyond the catalog, the team will be reviewing internal school policies regarding the delivery of student services (usually kept in a manual separate from the catalog like a staff handbook or standard operating procedures manual for each department), to include documentation to determine whether or not the school follows its establish policies on advising, grading, attendance monitoring, satisfactory academic progress, as well as career services, and tutoring;

If the school is using internal documents such as an "Advising Form" then completed documentation should be readily available to the on-site evaluation team so there can be an assessment as to whether or not student services are being deployed in a consistent manner.

Conclusion

In order to have a successful on-site evaluation, schools should actively engage in the all facets of the accreditation process and take advantage of every opportunity to demonstrate the success of the school as a whole, the success of its students and graduates, as well as to provide documentation that provides evidence of the school's compliance with accrediting standards.

Keep in mind, through the accreditation process, each school must establish that it is meeting ACCSC's standards before accreditation is conferred. In addition to this Blueprint Series, ACCSC has a number of resources available to support institutions in the accreditation process. Institutions are strongly encourage to take advantage of these resources, such as the ACCSC Monograph Series, regularly hosted workshops, conferences and webinars, as well a series of informative letters designed to help schools to connect with students and alumni.

RESOURCES

ACCSC's Online Training Center

Professional Development Opportunities at **www.accsctraining.org**

Other Blueprints for Success Series available at accsc.org

- Organizing an Effective Electronic Submission
- Preparing a Comprehensive Response for Commission Consideration

ACCSC Monograph Series

Designed to provide guidance to ACCSC-accredited institutions in the cycle of continuous performance improvement, self-evaluation, and self-improvement processes and practices.

- Maximizing Program Advisory Committees
- Learning Resource Systems
- Faculty Improvement Planning/Implementation
- Self Evaluation Processes and Practices
- Institutional Assessment and Improvement Planning/Implementation

ACCSC New Student Letter

ACCSC-accredited institutions are encouraged to incorporate this letter with any existing orientation packet that is provided to new students.

ACCSC Graduation Letter

ACCSC-accredited institutions are encouraged to include this letter with any graduation packet this is provided to students.

Events and Workshops – Check www.accsc.org for updates

- Free Faculty Development Workshops
- Free Best Practices Workshops
- Annual Professional Development Conference
- Accreditation Workshops

Blueprints for Success:

ACCSC's Graduation and Employment Chart

An ACCSC Member Services Series

Blueprints for Success
A Member Services Series

Introduction

The ACCSC **Blueprints for Success** highlight best practices and provide guidance on some of the more technical areas of ACCSC-accreditation in the hopes to help accredited member schools to comply fully and accurately with the Standards of Accreditation, achieve institutional success, and ensure that students are well prepared to enter the workforce.

Please note that the ACCSC **Blueprints for Success** do not supersede applicable accrediting standards, are not intended to be prescriptive about the way an accredited school operates, and do not address all compliance elements required by a school to maintain good standing with ACCSC. Rather, the ACCSC **Blueprints for Success** provides a framework that can help a school to gain a better understanding of the expectations and rigors of the accreditation process as well as sample documentation that a school might consider in order to demonstrate compliance with accrediting standards.

Modules

1. Preparing a Comprehensive Response for Commission Consideration

2. Organizing an Effective Electronic Submission

3. Preparing for the On-Site Evaluation – Best Practices

4. **ACCSC's Graduation & Employment Chart**

Module 4
ACCSC Graduation and Employment Chart

Part I - An Instructional Guide

The ACCSC Graduation and Employment Chart ("G&E Chart") is the Commission's mechanism for collecting, for each program, the rate at which students graduate from a program and the rate at which those graduates obtain employment in a training related field. The G&E Chart identifies "cohorts" of students and tracks individual student results within that cohort through program completion and employment outcomes. Schools must submit a G&E Chart for each program offered at the school based upon an established Reporting Period. The Commission then relies upon the reported data to make determinations about how well a program performs relative to the benchmark graduation and employment rates established by the Commission. The G&E Chart has specific criteria and parameters for each classification and as such schools must know and understand those criteria and apply them appropriately. This instructional guide is meant to provide schools with step-by-step instructions for completing the ACCSC G&E Chart.

How the Reporting Period is Calculated

The Reporting Period on the G&E Chart is calculated based on the Report Date and the Program Length in Months. Therefore, begin by entering:

- **Report Date** (use the following format: 7/1/16)

  The Report Date is generally provided in the Team Summary Report or Commission Action Letter. In the absence of this, use the Month/Year that the G&E Chart is being completed.

- **Program Length in Months**

  Use the actual amount of time a student must commit to a program to receive his or her credential, including breaks, holidays, and variations of schedule. A school's catalog may show the "academic instructional length" (weeks) and the "actual program length" in either weeks or months. To convert the program length from weeks to months, divide the number of weeks (including holidays and breaks) by 4.34 and round up to the nearest whole number. The actual program length is a clear indicator to the student of the total amount of time they will have to commit to successfully complete their program. The Commission uses the actual program length when calculating Graduation and Employment Chart cohort reporting timeframes. It is to the advantage of the school to use the actual program length (months) versus the academic instructional time (weeks) when calculating reporting timeframes. Please note, if the program is less than one (1) month, round up to one (1) month when entering the program length.

ACCSC's reporting period is designed to:

a. Obtain data for a 1-year period;

b. Allow for students to complete the program within 1.5 times the program length; and

c. Allow graduates at least 3 months to find employment.

So, for a 12 month program, the reporting period using a July 2016 Report date is calculated as follows:

- 12 x 1.5 + 3 = 21 months
- Count back 21 months from July 2016 → **September 2014**. This is the **END** of the Reporting Period
- Count back another 12 months from September 2014 → **October 2013**. This is the **BEGINNING** of the Reporting Period.

This means that the school will report on cohorts of students who started in the program between **October 2013 and September 2014**. This also means that students who started in the 12-month program in September 2014 will have had 150% of the normal length of the program to graduate and at least three months after graduation to find employment. This **does not mean** that students must have completed the program by the Reporting Period End Date.

The best news is that the Reporting Period dates are **automatically calculated** once you enter the Program Length in months and the Report Date on the G&E Chart.

Since the Reporting Period is dependent upon the length of the program in months the reporting period may be different for each scheduled variation of a program (e.g., part-time/full-time. The part-time version will likely have a longer program length). Again, the G&E Chart will automatically calculate these dates after the Report Date and Program Length are entered.

Important: For programs with multiple lengths, schools must submit a separate Graduation and Employment Chart for each version of the program. For example, submit two G&E Charts for a program with an 8-month schedule and a 12-month schedule.

A separate G&E Chart must also be submitted for programs that are offered 100% Distance Education or if more than 50% of the program is offered at a satellite location.

How to Enter Your Data

co•hort: noun.

A group of individuals having one or more factors in common in a study.

In the case of the G&E Charts, the common factors are students who start in the same program at the same time.

ACCSC tracks each students' progress/achievement by cohort **start dates**, not by graduation dates.

Step 1: As indicated above, enter the Report Date and the Program Length in Months to determine the Reporting Period.

Step 2: Begin Entering the Data line-by-line for each cohort.

Line (Row) 1. Class Start Date (enter using the four digit format for the year: ***Oct-2013*** **or** ***10/2013***).

This is the month and year each student cohort,[1] started. In the example below (**Table 1**), there are start dates every month for the Welding program. If your program does not have a start each month you only need to enter the dates that do have program start dates that fall within the Reporting Period.

Table 1

Report Date:	July-16
Program Title:	Welding
Program Length in Months:	12
Beginning Date of 12 Month Reporting Period:	Oct-13
Ending Date of 12 Month Reporting Period:	Sep-14

Line 1	Class Start Date (month/year)	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14
Line 2	Number Started	10	2	10	7	3	5	5	10	10	12	5	7

Step 3: Enter the number of students who started for each Class/Cohort Start Date.

Line 2. Number Started

This is the number of students who started in the program for each start date in the period, including students entering with advanced placement. For example, in **Table 1** above, **10** students started the Welding program in **October 2013** and **7** students started the program in **September 2014**.

Start: Students are considered to have been in attendance for reporting purposes if, as a result of their attendance, they incur a tuition/fee or other financial obligation as specified by the institution's refund policy. Fees or other obligations (i.e., uniforms, tools, etc.) are only those associated with actual attendance; not those considered part of the application for admission or enrollment process. In any event, any student enrolled 15 days from the scheduled start date of the program must be classified as a "start" for the purpose of reporting students on the Graduation and Employment Chart.

Step 4: Calculate the Graduation Rate.[2] From each Class/Cohort Start entered on Line 2, enter the number of students that fall into each category[3] (complete each row/line going down from each column start date).

Using the example in **Table 2** below, for the **October 2013** Class/Cohort Start:

Line 2: 10 students started in October 2013. Of the 10 student starts in this cohort:

Line 3: **1** student Transferred to Another ACCSC-approved Program at the school

Line 4: **1** student Transferred in from Another ACCSC-approved Program offered at the school.

Line 5: The Total Starts +/- Transfers is **10** (this line calculates automatically)

Line 6: **1** student was Unavailable for Graduation[4] due to military service deployment

[1] In cases where there are multiple program start dates in a month, group them by month.
[2] The G&E Chart is self-calculating in most areas, but you need to classify the students and graduates correctly based upon the available categories.
[3] The school must utilize the definitions in the **Glossary of Terms** portion of the Graduation & Employment Chart in the "Forms and Reports" section on the ACCSC website (www.accsc.org) for categorizing students for each line, also provided at the end of this document.

Line 7: **9** students are Available for Graduation (this line calculates automatically)

Line 8: 2 are classified as Withdrawn/Terminated*

*(**1** student withdrew and **1** student graduated but did not graduate within 150% of the program length therefore she is counted as a withdrawal for the purposes of reporting on the G&E chart.)

Line 9: **7** Students Graduated within 150% of the program length (this line calculates automatically)

Line 10: Graduation Rate for this Cohort = 78% (the number of graduates divided by the number available for graduation, 7/9).

Step 5: Calculate the Employment Rate from the group of graduates.

Using the example in **Table 2** below, for the **October 2013** Class/Cohort Start, of the **7** graduates in this cohort:

Line 11: **1** graduate Furthered [his/her] Education[5]

Line 12: **1** graduate is Unavailable for Employment[6] due to the onset of a medical condition

Line 13: **5** students are Available for Employment (this line calculates automatically)

Line 14: Of the 5 graduates Available for Employment, **4** are Employed in the Field

Line 15: Employment Rate for this Cohort = 80% (the number of employed graduates divided by the number available for employment, 4/5). (this line calculates automatically)

Line 16: **1** graduate is employed in an Unrelated Occupation.

Final Steps: Continue to complete each Class/cohort Start and the chart will automatically calculate the Total percentage.

[4] See the Glossary of Terms for the 4 (and only 4) reasons why a student would be removed from the Graduation Rate calculation.

[5] Further-Education: Graduates that continue on with education in an accredited institution of higher education (postsecondary) on at least a half-time basis.

[6] See the Glossary of Terms for the 5 (and only 5) reasons why a student would be removed from the Employment Rate calculation other than Further Education.

Table 2 (Red = this line calculates automatically)

In this example:

- The Total Graduation Rate for the Welding program is 74%
- The Total Employment Rate is 90%.

		Oct-13	13-Nov	13-Dec	14-Jan	14-Feb	14-Mar	14-Apr	14-May	14-Jun	14-Jul	14-Aug	14-Sep	TOTAL
1	**Class Start Date (month/year)**	Oct-13	13-Nov	13-Dec	14-Jan	14-Feb	14-Mar	14-Apr	14-May	14-Jun	14-Jul	14-Aug	14-Sep	**TOTAL**
2	**Number Started**	10	2	10	7	3	5	5	10	10	12	5	7	86
3	**Transfers to Another Program**	1												1
4	**Transfers from Another Program**	1												1
5	**Total Starts plus/minus Transfers**	10	2	10	7	3	5	5	10	10	12	5	7	86
6	**Unavailable for Graduation**	1												1
7	**Students Available for Graduation**	9	2	10	7	3	5	5	10	10	12	5	7	85
8	**Withdrawn/Terminated Students**	2		5	5	2	2	2	1	1	1		1	22
9	**Graduates within 150% of Program Length**	7	2	5	2	1	3	3	9	9	11	5	6	63
10	**GRADUATION RATE**	**78%**	100%	50%	29%	33%	60%	60%	90%	90%	92%	100%	86%	**74%**
11	**Graduates - Further Education**	1												1
12	**Graduates - Unavailable for Employment**	1		1					2					4
13	**Graduates - Available for Employment**	**5**	2	4	2	1	3	3	7	9	11	5	6	58
14	**Graduates - Employed in Field**	4	2	4	2	1	3	3	7	8	10	4	4	52
15	**EMPLOYMENT RATE**	**80%**	100%	100%	100%	100%	100%	100%	100%	89%	91%	80%	67%	**90%**
16	**Graduates - Unrelated Occupations**	1								1	1		1	4
17	**Graduates - Unemployed**													0
18	**Graduates - Unknown**											1	1	2

Glossary of Terms Used on the Graduation and Employment Chart

All Data Included in the Graduation and Employment Chart Must Be Verifiable Through Appropriate Documentation

1. Class Start Date: The month and year each student cohort, or groups of student cohorts students started (a group of student cohorts occurs when there are multiple class starts within a single month).

2. Number Started: The number of students who started in the program for each start date in the period, including students entering with advanced placement.

    Start: Students are considered to have been in attendance for reporting purposes (Start) if, as a result of their attendance, they incur a tuition/fee or other financial obligation as specified by the institution's refund policy. Fees or other obligations (i.e., uniforms, tools, etc.) are only those associated with actual attendance; not those considered part of the application for admission or enrollment process. In any event, any student enrolled 15 days from the scheduled start date of the program must be classified as a "start" for the purpose of reporting students on the Graduation and Employment Chart.

3. Transfers to Another Program: The total number of students who transferred <u>out of this program and into another ACCSC-approved program at the school</u>.

4. Transfers from Another Program: The total number of students who transferred <u>into this program from another ACCSC-approved program at the school</u>.

5. Total Starts plus/minus Transfers (Line 5 = 2-3+4): The total number of students who started, minus those who transferred out, plus those who transferred in. This is the total number of students on which graduation will be based.

6. Unavailable for Graduation: This category removes from the graduation rate calculation students who fall into one of the following classifications: death, incarceration, active military service deployment, or the onset of a medical condition that prevents continued enrollment.

7. Available for Graduation (Line 7=5-6): The total number of student available for graduation from the program. (This is the total number of students who started the program that have not dropped for the above four reasons.)

8. Withdrawn / Terminated Students: The number of students who withdrew or were terminated, within 150% of the program length, from the program. This number does not include the student classified as "Unavailable for Graduation" (Line 6).

9. Graduates within 150% of Program Length: The number of students who graduated from the program within 150% of the stated program length.

10. **GRADUATION RATE**: The school's official graduation rate for each cohort and for the program for the reporting period (Line 10 = 9/7).

11. Graduates - Further Education: This category removes from the employment rate calculation the number of graduates that continue on with education in an accredited institution of higher education (postsecondary) on at least a half-time basis.

12. Graduates - Unavailable for Employment: This category removes from the employment rate calculation graduates who fall into one of the following categories: death, incarceration, active military service deployment, the onset of a medical condition that prevents employment, or international students who have returned to their country of origin.

13. Available for Employment (Line 13 = 9-11-12): The total number of students available for employment.

14. Graduates - Employed in Field: The number of graduates employed in jobs for which the program trained them. NOTE: Graduates classified as employed must be supported by documentation showing position obtained, date employed, employer, and employer contact person, address, and phone.

    Please Note: The school must be able to justify the classification of each graduate as employed in a training related field and maintain verifiable employment records using **ACCSC's Guidelines for Employment Classification**, ***Standards of Accreditation, Appendix VII*.**

15. **EMPLOYMENT RATE**: The school's official rate of graduate job attainment for each cohort and for the program for the reporting period (Line 15=14/13). The school's official rate of employment is that which is used to determine compliance with accreditation requirements.

16. Graduates in Unrelated Occupations: The number of graduates employed in jobs not related to the training obtained from the school's program.

17. Graduates Unemployed: The number of unemployed graduates.

18. Graduates Unknown: The number of graduates for which no information about employment or unemployment is available.

19 Non-Graduated Students Who Obtained Training Related Employment: The number of withdrawn/terminated students from Line 8 who obtain employment in a field related to the program in which the student was enrolled and based upon the training provided by the school.

20. Employment Rate with Non-Graduated Students Who Obtained Training Related Employment: The school's supplemental employment rate which calculates the total number or graduated and non-graduated students who obtained training related employment.

How the G&E Chart Data is Verified

ACCSC verifies Graduation and Employment data reported by schools in a number of ways including but not limited to:

a. Verification during on-site evaluations and

b. Verification of a random sample of reports each year.

Independent Third-Party Verification of Employment Data

- Annual Random Sample

  ACCSC randomly selects and subjects graduate employment records from 10% of the Annual Reports submitted by ACCSC-accredited institutions to a third-party independent verification audit.

- Initial and Renewal Application for Accreditation

  In 2014, in addition to the annual random sampling conducted by ACCSC through an independent third-party verifier, ACCSC mandated that all institutions seeking initial accreditation or renewal accreditation subject graduate employment records for all programs to an independent verification audit[7] as part of the accreditation process – the requirements and parameters are detailed in the ACCSC Self-Evaluation Report found on the Forms and Reports page of the ACCSC website.

On-Site Evaluation

The on-site evaluation team will review documentation to support the graduation rate (e.g., transcripts and documentation for students classified as Unavailable for Graduation) as well as documentation to support the employment rate (e.g., employment records and documentation for students categorized as Graduates - Further Education and Graduates - Unavailable for Employment).

[7] http://www.accsc.org/Resources/Independent-Third-Party-Employment-Data-Verification.aspx

Documentation to Support the G&E Chart

The school must support student achievement rates through student transcripts, the school's verifiable records and documentation of initial employment of its graduates, [8] and exam pass rate data obtained from the requiring entity. The school must be able to justify the classification of each graduate as employed in a training related field and maintain verifiable employment records using **ACCSC's Guidelines for Employment Classification**, ***Standards of Accreditation, Appendix VII***.

The Commission requires that the supporting documentation for the G&E Chart be **organized by Cohort Start Date** for each G&E Chart. There are two methods that the Commission typically requests supporting documentation from a school.

Part II of this Blueprint module contains examples of the Commission's expectations for these two methods:

1. **Summary** Supporting Information and
2. Actual Copies of **Supporting Documentation/Employment Records.**

[8] See *Appendix VII* for the Commission's Guidelines for Employment Classification.

Module 4
ACCSC Graduation and Employment Chart

Part II - Sample Supporting Documentation

Section VII (B)(1)(b), Substantive Standards, Standards of Accreditation states that schools must demonstrate successful student achievement by maintaining acceptable rates of student graduation and employment in the career field for which training is provided and must support these rates through student transcripts, the school's verifiable records of initial employment of its graduates, or other verifiable documentation. The Graduation and Employment Chart ("G&E Chart") is the Commission's mechanism for collecting student achievement data and schools must provide this information in accordance with prescribed requirements and instructions that accompany this chart.

The Commission provides this sample of supporting documentation in an effort to help schools better understand how the Commission would like this information to be organized in order to facilitate efficient review and to help schools better understand the types of documentation that the Commission considers to be verifiable evidence to support data presented by schools in the ACCSC G&E Chart. The information included in this document is considered to be examples of documentation and is not intended to be an exhaustive list and schools are not limited to these examples. Schools may use other types of supporting documentation that can be validated and verified.

Two methods that the Commission **typically** requests/reviews supporting documentation from a school as required in Commission Action Letters, Team Summary Reports, the SER, etc.:

1. **Summary** Supporting Information
2. Actual Copies of **Supporting Documentation/Transcripts/Employment Records**

The pages that follow provide examples that align with **Table 3** - Sample G&E Chart

Table 3

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Graduation and Employment Chart

School #: **M123456** Name of School: Welding Institute Report Date: July-16

City: **Arlington** St: **VA** Zip: 22201 Phone: 703-555-5555 Email: email@sample.com

Program Title: Welding (Diploma) Program Length in Months: **12**

Beginning Date of 12 Month Reporting Period: **Oct-13** Ending Date of 12 Month Reporting Period: **Sep-14**

1	Class Start Date (month/year)	Oct-13	Nov-13	Dec-13	Jan-14	Feb-14	Mar-14	Apr-14	May-14	Jun-14	Jul-14	Aug-14	Sep-14	**TOTAL**	%	%=
2	Number Started	10	2	10	7	3	5	5	10	10	12	5	7	**86**	100%	
3	Transfers to Another Program	1												**1**	1%	3/2
4	Transfers from Another Program	1												**1**	1%	4/2
5	Total Starts plus/minus Transfers	10	2	10	7	3	5	5	10	10	12	5	7	**86**	100%	
6	Unavailable for Graduation	1												**1**	1%	6/5
7	Students Available for Graduation	9	2	10	7	3	5	5	10	10	12	5	7	**85**	99%	7/5
8	Withdrawn/Terminated Students	2		5	5	2	2	2	1	1	1		1	**22**	26%	8/5
9	Graduates within 150% of Program Length	7	2	5	2	1	3	3	9	9	11	5	6	**63**	74%	9/7
10	**GRADUATION RATE**	**78%**	**100%**	**50%**	**29%**	**33%**	**60%**	**60%**	**90%**	**90%**	**92%**	**100%**	**86%**	**74%**		9/7
11	Graduates - Further Education	1												**1**	2%	11/9
12	Graduates - Unavailable for Employment	1		1					2					**4**	6%	12/9
13	Graduates - Available for Employment	5	2	4	2	1	3	3	7	9	11	5	6	**58**	92%	13/9
14	Graduates - Employed in Field	4	2	4	2	1	3	3	7	8	10	4	4	**52**	83%	14/9
15	**EMPLOYMENT RATE**	**80%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**89%**	**91%**	**80%**	**67%**	**90%**		14/13
16	Graduates - Unrelated Occupations	1								1	1		1	**4**	7%	16/13
17	Graduates - Unemployed													**0**	0%	17/13
18	Graduates - Unknown											1	1	**2**	3%	18/13

If there is a value other than zero in any of these fields, then there is an error in the data:													
Checking Calculation of Graduates	0	0	0	0	0	0	0	0	0	0	0	0	0
Checking Calculation of Available for Employment	0	0	0	0	0	0	0	0	0	0	0	0	0
Checking Placement Accountability	0	0	0	0	0	0	0	0	0	0	0	0	0

19	Non-Graduated Students Who Obtained Training Related Employment													**0**	0%	19/5
20	**Employment Rate with Non-Graduated Students Who Obtained Training Related Employment**	**80%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**100%**	**89%**	**91%**	**80%**	**67%**	**90%**		

If the value is greater than zero in any of these fields, then there is an error in the data.													
Checking Calculation of Non-Graduated Students	-2	0	-5	-5	-2	-2	-2	-1	-1	-1	0	-1	-22

Summary Supporting Information

(To support data in **Table 3**)

Program: **Welding**

Report Date: **July 2016**
Program Length in Months: **12**
Reporting Period Beginning Date: **October 2013**
Reporting Period End Date: **September 2014**

Graduation Rate

For each student start provide the following:

Student Name	Program	Start Date	Graduation Date	Withdrawal/Termination Date
Mike Grey	Welding	10/13	10/1/14	N/A
Jim Brown	Welding	10/13	10/1/14	N/A
Bill White	Welding	10/13	10/1/14	N/A
Sally Greene	Welding	10/13	10/1/14	N/A
Tony Blue	Welding	10/13	N/A	N/A
Tony Green	Welding	10/13	10/1/14	N/A
Mike White	Welding	10/13	10/1/14	N/A
Sally Summer	Welding	10/13	10/1/14	N/A
Margaret Winter	Welding	10/13	**6/1/15****	Graduated beyond 150%
Alice Autumn	Welding	10/13	N/A	1/20/14
Manuel Blanco	Welding	**11/13**	11/1/14	N/A
Jose Verde	Welding	**11/13**	11/1/14	N/A

******Although Margaret Winter ultimately graduated, she did not complete the program within 150% of the normal duration therefore she is counted as a withdrawal for the purposes of reporting on the G&E Chart.[9]

For each student classified as "**Unavailable for Graduation**" (line #6), provide the following information:

Student Name	Program	Start Date	Reason Unavailable	Description of Documentation on File
Tony Blue	Welding	10/13	Military Deployment	Copy of Military orders

The school must be able to provide supporting and verifiable documentation for each student classified as "Unavailable for Graduation" to include minimally, external documentation such as military orders, letter from physician/doctor, death notice/obituary, public record of incarceration.

[9] The school is not required to terminate the enrollment of a student who is unable to complete the program within the maximum timeframe unless the school has determined that the student has failed to meet school policies that would otherwise warrant termination (e.g., academic progress or attendance policies). For the purposes of reporting student achievement, the school may not classify students who do not complete the program within the maximum timeframe as graduates (*Section VII (A)(3)(d) Substantive Standards, Standards of Accreditation*).

Employment Rate

For each graduate classified as Employed in the Field[10] (line #14), provide the following information:

Graduate Name	Program	Start Date	Place of Employment	Contact Address / Phone/ Email for Place of Employment	Date of Initial Employment	Descriptive Job Title & Responsibilities	Source of Verification (i.e., graduate or employer)
Mike Grey	Welding	10/13	J&J Pipe Fitters	2525 Wilson Blvd 703-123-7890 mgrey@jj.com	11/10/14	**Owner** Business operations, welding, hire and train welders	Graduate
Jim Brown	Welding	10/13	Besmart Welders	2527 Wilson Blvd Arlington, VA 703-555-2525 jdavola@bw.com	11/25/14	**Welder** Identify faults; control processes of fitting, burning and welding	Employer
Bill White	Welding	10/13	Jameson Pipe Fitters Contact: Jack Smith	2000 Wilson Blvd Arlington, VA 703-555-2225 jsmith@jp.com	7/1/14*	**Senior Welder** Supervise and identify faults; control processes of fitting, burning and welding	Employer
Sally Greene	Welding	10/13	B & B Steam Fitters Contact: Bill Benson	2727 Wilson Blvd Arlington, VA 703-555-5525 bbenson@bb.com	11/12/14	**Welder** Identify faults; control processes of fitting, burning and welding	Employer
Manuel Blanco	Welding	**11/13**	J&J Pipe Fitters Contact: James Jenson	2525 Wilson Blvd Arlington, VA 703-123-7890	12/1/14	**Welder Apprentice** Clamp, hold, etc component parts Chip or grind off excess weld, Weld parts	Graduate
Pedro Azul	Welding	**11/13**	B & B Steam Fitters Contact: Bill Benson	2727 Wilson Blvd Arlington, VA 703-555-5525	12/8/14	**Fabrication Welder** Performs journey-level welding in the fabrication, repair and maintenance of equipment	Employer

*This date of initial employment is prior to his graduation date, therefore this school will need to document how this situation meets ACCSC's Guidelines for "Career Advancement." See description of documentation on file below for Bill White.

[10] See *Appendix VII – Guidelines for Employment Classification, Standards of Accreditation*

For each graduate classified as employed in a training related field, that is "**self-employed**" or "**career advancement**," provide the following:

Self-Employed Graduates:

Graduate Name	Program	Start Date	Description of the Documentation on File
Mike Grey	Welding	10/13	Statement signed by the graduate that includes all elements from the ACCSC *Guidelines for Employment Classification* including the required attestation for self-employed graduates

Graduates classified as Career Advancement

Graduate Name	Program	Start Date	Description of the Documentation on File
Bill White	Welding	10/13	Statement from the employer that the training supported the graduate's ability to be eligible or qualified for advancement due to the training provided by the school.

For each graduate classified as "Graduates-Further Education" (line #11) or "Graduates-Unavailable for Employment" (line #12), provide the following information:

Graduate Name	Program	Start Date	Classification on the G&E Chart	Reason	Description of the Documentation on File
Manuel Ortiz	Welding	10/13	Further Education	Enrolled in Advanced Welding at another school	Copy of acceptance letter from new school
Samuel Smith	Welding	10/13	Unavailable for Graduation	Military Service Deployment	Copy of Military Orders

The school must have supporting and verifiable documentation for any student classified as "Unavailable for Graduation" (line #6), "Graduates-Further Education" (line #11), "Graduates-Unavailable for Employment" (line #12), or "Non-Graduated Students Who Obtained Training Related Employment" (line #19). This must include, minimally, external documentation such as transcripts/enrollment agreements for "Graduates-Further Education" and military orders, letter from physician/doctor, death notice/obituary, public record of incarceration, etc. for "Graduates-Unavailable for Employment."

Examples of Supporting Documentation[11]

The examples here are not intended to be an exhaustive list but rather examples of what the Commission considers to be verifiable. Other types of documentation may be considered verifiable.

Line #6 - Unavailable for Graduation: This category removes from the graduation rate calculation students who fall into one of the following classifications: death, incarceration, active military service deployment, or the onset of a medical condition that prevents continued enrollment.

The following is a list of the types of documentation that the Commission considers to be verifiable:

Deceased: Copy of death record, copy of obituary, or other official documentation on letterhead.

Incarcerated: Copy of the arrest record, police report or booking/intake documentation, or other official documentation on letterhead or downloaded from an official website.

Active Military Service: Copy of military orders or other official documentation on letterhead or downloaded from an official website.

Medical Condition: Copy of documentation from the student's physician that demonstrates that the student cannot continue enrollment due to a medical condition. Details regarding the student's specific medical condition are not necessary.

Line #11 - Graduates - Further Education: This category removes from the employment rate calculation the number of graduates that continue on with education at an accredited institution of higher education (postsecondary) on at least a half-time basis. The following is a list of examples of documentation the Commission considers to be verifiable:

- **Enrollment Agreement** at institution where student is continuing education.
- **Acceptance Letter** from Institution where student is continuing education.
- **Student enrollment records** from a database or clearinghouse.

Line #12 - Graduates - Unavailable for Employment: This category removes from the employment rate calculation graduates who fall into one of the following categories: death, incarceration, active military service deployment, the onset of a medical condition that prevents employment, or international students who have returned to their country of origin.

The following is a list of examples of documentation the Commission considers to be verifiable:

- **Deceased:** Copy of death record, copy of obituary, or other official documentation on letterhead.
- **Incarcerated:** Copy of the arrest record, police report or booking/intake documentation, or other official documentation on letterhead or downloaded from an official website.
- **Active Military Service:** Copy of military orders or other official documentation on letterhead or downloaded from an official website.
- **Medical Condition:** Copy of documentation from the graduate's physician that demonstrates that the graduate cannot pursue employment due to a medical condition. Details regarding the graduate's specific medical condition are not necessary.

[11] If a demonstration cannot be made, with verifiable supporting documentation, for the above conditions, students should not be classified as "Unavailable for Graduation,' "Unavailable for Employment," "Further Education" or "Employed in Field." Supporting documentation should be maintained in the student file for reporting/verification purposes.

- **International Students who have left the country and returned to their country of origin:** Admissions/enrollment paperwork that demonstrates the student is not a U.S. citizen and any supporting documentation that demonstrates they have not maintained U.S. residence status following graduation.

Line #14 - Graduates – Employed in Field

GUIDELINES FOR EMPLOYMENT CLASSIFICATION (*Appendix VII, Standards of Accreditation*)

The school must be able to justify the classification of each graduate as employed in a training related field and maintain verifiable employment records using the following guidelines. In accordance with *Section I (A)(1)(d) Substantive Standards, Standards of Accreditation*, the school should have and adhere to policies or protocols in regard to these guidelines (reasonable time period, sustainability, relatedness, etc.).

1. The employment classification is appropriate and reasonable based on the educational objectives of the program.
2. The employment is for a reasonable period of time, is based on program objectives, and can be considered sustainable (e.g., not a single day of employment).
3. The employment is directly related to the program from which the individual graduated, aligns with a majority of the educational and training objectives of the program, and is a paid position.
4. The employment classification is verified by the school (and verifiable by third parties such as the Commission) as follows:
   a. Regular Employment:
      i. The school secures written documentation from the employer verifying the employment and that the employment is related to the student's program of study at the school; or
      ii. The school secures written documentation from the graduate verifying the employment and that the employment is related to the student's program of study at the school; or
      iii. In cases where a school can show **diligent** efforts have been made to secure such written documentation without success, the school maintains employment verification records that include:
         1. The graduate's and employer's name and contact information;
         2. A signature of school staff attesting to verbal employment verification with the employer and the date of verification; **and**
         3. A signature of school staff attesting to verbal employment verification with the graduate and the date of verification.

   b. Self-Employment:

      The school secures written documentation from the self-employed graduate verifying that the employment is valid including, at a minimum, a statement signed by the graduate which includes the following:

      - The graduate's name and contact information;

Note: The school should have a policy/definition for what it considers to be **diligent** effort. The policy defines how many attempts the school makes to get written documentation before resorting to verbal verification. Keep documentation of those diligent efforts/attempts.
Verbal verification is NOT permitted for Self-Employment.

- An attestation that the self-employment is aligned with the individual's employment goals, is vocational, and is based on and related to the education and training received;
- An attestation that the graduate is earning training-related income; and
- In cases where licensure is required for employment, an attestation that such licensure has been achieved.

c. Career Advancement:

Students that are already employed **in the field of study** as defined above at the time of graduation[12] can be considered employed when completing the program of study as follows:

i. The school shows with written documentation from the employer or the graduate that the training allowed the graduate to maintain the employment position due to the training provided by the school; or

ii. The school shows with written documentation from the employer or the graduate that the training supported the graduate's ability to be eligible or qualified for advancement due to the training provided by the school.

> Some schools create Employment Verification Forms to obtain verification and documentation from employers/graduates.
>
> See Sample **Employment Records/Verification** on next pages.

[12] The intent of this provision does not apply in cases where a student secures employment toward the end of the program but prior to graduation, where the employment is based on the near anticipated completion of the program (e.g., externship to hire prior to graduation).

Employment Record/Verification for Regular Employment - Example (using an email)

From: Joe Davola
Sent: Tuesday, February 25, 2015 12:26 PM
To: Cal Barnson
Subject: RE: Employment Verification

Hello Cal,

Jim did start here at BeSmart Welders back in November of 2014 as a welder. He was primarily responsible for designs, fabrications, joints, and repairs of various equipment and fixtures. He did a great job and has since been promoted to Shop Supervisor. Please let me know if you have any additional questions regarding Jim. Also, I am looking for someone to fill his Welder position, do you have any exceptional current graduates for me?

Thank you,
Joe

Joe Davola
Master Welder
BeSmart Welders
2527 Wilson Blvd Arlington, VA
703-555-2525
jdavola@bw.com

From: Cal Barnson
Sent: Tuesday, February 25, 2015 12:19 PM
To: Joe Davola
Subject: Employment Verification

Dear Mr. Joe Davola,

I am writing to verify the employment of one of our graduates:
Jim Brown
Cell: 555.555.5555
jbrown@example.com

Can you please confirm the following for Jim Brown

Start Date at BeSmart Welders: 11/25/14
Job Title: Welder
Duties: Identify faults; control processes of fitting, burning and welding.

Thank you,

Cal Barnson
Director of Career Services
The Welding Institute
555 School Boulevard
Arlington, VA 22201

Employment Record/Verification for Regular Employment - Example (using a Form)

The Welding Institute
555 School Boulevard
Arlington, VA 22201

Employment Verification Form – Regular Employment

Graduate Information:

Name: Jim Brown **Program:** Welding **Start Date:** 10/13 **Grad Date:** 10/1/14

Email: jb@example.com **Cell Phone:** 555-555-5555
(email must be a current/active and non-school email address where we can reach you after graduation)

Employment Information:
Please provide the following information for the above named graduate of The Welding Institute.

Company Name: BeSmart Welders

Company Address: 2527 Wilson Blvd Arlington, VA

Company Telephone: 703-555-2525 Fax: ____________

Employee's Title/Position: Welder

Hire/Start Date: 11/25/14

List of Job Duties (or attach job description):

Responsible for designs, fabrications, and repairs of various equipment and fixtures. Did a great a great job and has since been promoted to Supervisor.

Supervisor Name: Joe Davola Title: Master Welder

Signature of Supervisor/Company Representative: Joe Davola Date: 2/25/15
(If employment was verified by Employer)

Signature of Graduate: ____________ Date: ____________
(If employment was verified by Graduate)

Please return to: Fax: 555.555.5555 or email info@sample.edu

Employment Record/Verification for Self-Employment - Example (using a Form)

The Welding Institute
555 School Boulevard
Arlington, VA 22201

Employment Verification Form – Self-Employment

Graduate Information:

Name: Mike Grey **Program:** Welding **Start Date:** 10/13 **Grad Date**: 10/1/14

Email: mgrey@jj.com **Cell Phone:** 555-555-5555
(email must be a current/active and non-school email address where we can reach you after graduation)

Self-Employment Information:

Company Name: J&J Pipe Fitters

Company Address: 2525 Wilson Blvd., Arlington, VA

Telephone: 555-555-1234 Fax: ____________________

Start Date: 10/15/14

List of Services Offered/Provided: Create and fabricate designs; join and repair various equipment and fixtures for customers.

I attest to the following:

After graduating from The Welding Institute I am currently self-employed;

My self-employment is:

- *aligned with my employment goals,*
- *is vocational, and*
- *is based on and related to the education and training received at The Welding Institute;*

I am earning training-related income; and

I have achieved the required licensure to practice as a welder in my state.

Signature of Graduate: Mike Grey Date: 2/25/14

Please return to: Fax: 555.555.5555 or email info@sample.edu

Tip:
Where there are a significant number of self-employed graduates, it is also helpful to have supporting information such as current client lists, recent invoices, online reviews, etc.

OTHER RESOURCES available at www.accsc.org

ACCSC's Online Training Center

Professional Development Opportunities at www.accsctraining.org

ACCSC OTC
Online Training Center

Other Blueprints for Success Series available at accsc.org

- Organizing an Effective Electronic Submission
- Preparing a Comprehensive Response for Commission Consideration
- Preparing for the On-site Evaluation

ACCSC Monograph Series

- Maximizing Program Advisory Committees
- Learning Resource Systems
- Faculty Improvement Planning/Implementation
- Self-Evaluation Processes and Practices
- Institutional Assessment and Improvement Planning/Implementation

ACCSC New Student Letter

ACCSC-accredited institutions are encouraged to incorporate this letter with any existing orientation packet that is provided to new students.

ACCSC Graduation Letter

ACCSC-accredited institutions are encouraged to include this letter with any graduation packet this is provided to students.

Events and Workshops – Check www.accsc.org for updates

- Annual Professional Development Conference
- Accreditation Workshops

Exhibit F:

Comprehensive Title I and Title IV Consumer Information and Disclosure Checklist

Provided by the National Association of Student Financial Aid Administrators (NASFAA)

Comprehensive Title I and Title IV
Consumer Information and Disclosure Checklist

Updated August 2017

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Academic programs, facilities, and instructional personnel	HEA 485(a)(1)(G), (N) 668.41(d)(2) 668.43(a)(5) 668.231(a), *Comprehensive transition and postsecondary program* *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Accreditation and licensing of the institution	HEA 485(a)(1)(J) 668.43(a)(6),(b) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	The information must include contact information for filing complaints about the institution. See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Annual fire safety report	HEA 485(a)(1)(T),(i) 668.41(c)(2),(e) 668.49(a)-(c) *FSA Handbook*, Vol. 2, Ch. 6	Enrolled students and current employees: Annually by 10/1 Prospective students and employees: Upon request U.S. Department of Education (ED): Date specified in ED letter to institution's president or chief executive officer	Enrolled and prospective students, current and prospective employees, and ED	Enrolled students and current employees: Publication provided through U.S. Postal Service, campus mail, or email; intranet or Internet posting if notice of the report's availability includes the exact website address, a brief description of report, and a statement that institution will provide paper copy upon request Prospective students and employees: Notice of the report's availability including a brief description of the report; if the report is posted to the Internet, the notice must include the exact website address and a statement that institution will provide a paper copy upon request ED: Online Campus Safety and Security Survey	The requirement applies if the institution has any on-campus student housing facility. The institution may publish the fire safety report concurrently with the annual security report if the combined report title clearly states it contains both reports. If the reports are published separately, each report must include information about how to access the other report.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Annual security report	HEA 485(a)(1)(O) HEA 485 (f)(1),(5)-(10),(12)-(14),(17) 668.41(c)(2),(e) 668.46(b)-(d),(g),(h),(j) Appendix A to Subpart D of Part 668 *FSA Handbook*, Vol. 2, Ch. 6	Enrolled students and current employees: Annually by 10/1 Prospective students and employees: Upon request ED: Date ED specifies in annual letter to institution's president or chief executive officer	Enrolled and prospective students, current and prospective employees, and ED	Enrolled students and current employees: Publication provided through U.S. Postal Service, campus mail, or email; intranet or Internet posting if notice of report's availability includes the exact website address, a brief description of the report, and a statement that institution will provide paper copy upon request Prospective students and employees: Notice of the report's availability including a brief description of report; if the report is posted to the Internet, notice must include the exact website address and a statement that institution will provide a paper copy upon request ED: Online Campus Safety and Security Survey	Report requirements were modified by Violence Against Women Reauthorization Act of 2013 (VAWA). See the discussions in the *Federal Register*, 10/20/14, pp. 62753 to 62754 and 62783 to 62790. The institution may publish the annual security report concurrently with the fire safety report if the combined report title clearly states it contains both reports. If the reports are published separately, each report must include information about how to access the other report.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Arrangements with other institutions to provide instruction	668.5(e) 668.43(a)(12) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Available financial aid	HEA485(a)(1)(A)-(C) 668.41(d)(1) 668.42(a),(b) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	For each available financial aid program, required information includes application procedures, eligibility requirements, and awarding criteria. See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Code of conduct if participating in Title IV loan program	HEA 487(a)(25),(e) 601.21 668.14(b)(27) *FSA Handbook*, Vol. 2, Ch. 3	Annually	All institutional employees and officers with Title IV loan responsibilities	On website and (paper or electronic) notification to individuals with Title IV loan responsibilities	If the institution participates in a preferred lender arrangement, the institution may develop a single code of conduct that meets the requirements of both 601.21 and 668.14(b)(27).
Code of conduct if preferred lender arrangement	HEA 153(c)(3) HEA 487(a)(25),(e) 601.2 601.21	Annually	All employees and officers of the institution and of institution-affiliated organization(s) with responsibilities with respect to private education loans	On (institution's and institution-affiliated organization's) website and (paper or electronic) notification to individuals with responsibilities with respect to private education loans	If the institution participates in a Title IV loan program, the institution may develop a single code of conduct that meets the requirements of both 601.21 and 668.14(b)(27).

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Completion or graduation rate, retention rate, and transfer-out rate of full-time undergraduates	HEA 85(a)(1)(L),(3)-(7) 668.41(d)(4) 668.45 *FSA Handbook*, Vol. 2, Ch. 6	Enrolled students: Information must be readily available Prospective students: Must make information available prior to enrolling or entering into any financial obligation with the institution ED: By the 7/1 immediately following the 12-month period ending 8/31 during which 150 percent of the normal time for completion or graduation has elapsed for all students in the cohort	Enrolled and prospective students and ED	Enrolled and prospective students: Paper or electronic ED: Integrated Postsecondary Education Data System (IPEDS) graduation rate survey	The transfer-out rate is required if the institution's mission includes providing substantial preparation for students to enroll in another institution. See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Consortium and contractual agreement information	HEA 485(a)(1)(G) 668.43(a)(12) *FSA Handbook*, Vol. 2, Ch. 2	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Constitution Day and Citizenship Day program	Public Law (P.L.) 108-447, Sec. 111 *Electronic Announcement*. 08/31/12 *Federal Register*, 05/24/05, p. 29727	Annually on September 17 (i.e., Constitution Day, commemorating the signing of the U.S. Constitution on September 17, 1787)	Enrolled students	Not specified	When Constitution Day falls on the weekend or holiday, program should be held during the preceding or following week.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Copyright and peer-to-peer file sharing issues	HEA 485(a)(1)(P) 668.43(a)(10) GEN-10-08 *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Cost of attending the institution	HEA 485(a)(1)(E) 668.43(a)(1) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Course schedule information	HEA 133(e) GEN-10-09 *FSA Handbook*, Vol. 2, Ch. 6	Upon request	Bookstore operated by, in a contractual relationship with, or otherwise affiliated with the institution	Paper or electronic	ED may not regulate HEA 133.
Crime log	HEA 485(f)(4) 668.46(f) *FSA Handbook*, Vol. 2, Ch. 6	Portion of log for most recent 60-day period: Upon request during normal business hours Portion of log older than 60 days: Within 2 business days of request	Anyone regardless of whether associated with the institution	Paper or electronic	The requirement applies if the institution maintains campus police or campus security department.
Direct Loan (Federal Direct Student Loan) model disclosure form	HEA 154 601.30	When providing information about a private education loan; otherwise must make available upon request	Enrolled and prospective students and their families	ED-developed model form	The requirement applies if the institution participates in the Direct Loan Program.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Diversity of student body	HEA 485(a)(1)(Q) 668.45(a)(6)	Upon request	Enrolled and prospective students	Paper or electronic	The required information is part of institution's completion or graduation rate information. *See Completion or graduation rate, retention rate, and transfer-out rate of full-time undergraduates***.**
Drug and alcohol abuse prevention program information	HEA 120(a)(1),(b) 86.100(a) 86.103(a) 668.46(b)(8)-(10) *FSA Handbook*, Vol. 2, Ch. 6	Enrolled students and employees: Annually ED and public: Upon request	Enrolled students, employees, ED, and the public	Paper or electronic	
Drug-free workplace information	84.200(a)(1) 84.205 84.210 668.46(b)(10) *FSA Handbook*, Vol. 2, Ch. 6	Annually	Employees	Paper or electronic	The requirement applies if the institution participates in any campus-based program.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Education loan disclosures if preferred lender arrangement exists	HEA 152(a)(1)(A) 601.2 601.10(a)(1),(b),(c) 668.14(b)(28)	Annually so students or their families can take the information into account before selecting a lender or applying for an education loan	Enrolled and prospective students and their families	On website and in all information materials that discuss education loans distributed to enrolled and prospective students or their families Information materials may include a link to a website containing the disclosures if they also identify the institutional contact for requesting a print copy of the disclosures	Information materials are publications, mailings, or electronic messages. See the discussion in the *Federal Register*, 7/28/09, p. 37439.
Emergency response and evacuation notification	HEA 485(f)(1)(J)(i),(ii) 668.46(e)(3),(g) *FSA Handbook*, Vol. 2, Ch. 6	If immediate threat to the health or safety of students or employees occurring on campus and without delay unless, in the judgment of responsible authorities, compromises efforts to assist a victim or contain, respond to, or otherwise mitigate the emergency Must provide adequate follow-up information as needed	Campus community	Any method or combination of methods that alerts the campus community without delay and takes into account the safety of the community	The requirement applies if the institution provides any on-campus student housing facility and to wider range of threats than timely warnings (e.g., gas leak, highly contagious virus, hurricane, etc.)

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Entrance counseling—Direct Loans	HEA 485(l) 685.304(a) *FSA Handbook*, Vol. 2, Ch. 6	Prior to first disbursement of loan proceeds	All "first-time" borrowers of Direct Subsidized Loan or Direct Unsubsidized Loan and all "first-time" graduate PLUS borrowers	In person, online, or interactive electronic means If enrolled in correspondence or study abroad program, may use paper	First time Direct Subsidized Loan or Direct Unsubsidized Loan borrower is a student who has not received a prior Direct Subsidized Loan, Direct Unsubsidized Loan, Federal Stafford Loan, or Federal SLS. First-time graduate PLUS borrower is a student who has not received a prior Direct PLUS or Federal PLUS. Borrowers may participate in ED-provided Direct Loan entrance counseling at https://studentloans.gov.
Exit counseling—Title IV loan programs	HEA 485(b) 674.42(a),(b) 682.604(a) 685.304(b) *FSA Handbook*, Vol. 2, Ch. 6	Shortly before the borrower ceases at least half-time enrollment or within 30 days of learning the borrower left school or failed to complete exit counseling as required If enrolled in correspondence or study abroad program, within 30 days of completing the program	All student borrowers of a loan made under the Federal Perkins Loan, Direct Loan, or Federal Family Education Loan (FFEL) programs	In person, audiovisual presentation, or interactive electronic means If enrolled in correspondence or study abroad program or otherwise fails to complete exit counseling, may use paper	Borrowers may participate in ED-provided Direct Loan exit counseling at https://studentloans.gov.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Family Education Rights and Privacy Act (FERPA) rights	99.4 99.5 99.7 *FSA Handbook*, Vol. 2, Ch. 6 and 7	Annually	Parents of students currently in attendance or eligible students currently in attendance	Paper or electronic	
Federal Perkins Loan pre-disbursement disclosures	674.42(a) *FSA Handbook*, Vol. 6, Ch. 3	Before school makes first loan disbursement for an award year	Federal Perkins Loan borrower	In writing as part of the written application material, as part of the promissory note, or on a separate written form	
Fire log	HEA 485(i)(3) 668.49(a),(d) *FSA Handbook*, Vol. 2, Ch. 6	Portion of log for most recent 60-day period: Upon request during normal business hours Portion of log older than 60 days: Within 2 business days of request	Anyone regardless of whether associated with the institution	Paper or electronic	The requirement applies if the institution has any on-campus student housing facility.
Foreign gifts or contracts worth more than $250,000 within a calendar year	HEA 117 GEN-04-11 *FSA Handbook*, Vol. 2, Ch. 6	Report to ED by the earlier of 1/31 or 7/31 after the receipt of the gift(s) or the contract date; must make report available for public inspection and copying during business hours	ED and the public	ED: E-App Public: Copy of disclosure report	If comparable state or federal Executive Branch reporting requirement exists, alternative reporting is permitted.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Gainful employment program disclosure information	668.6(b) *FSA Handbook*, Vol. 2, Ch. 6	Annually	Prospective students and ED	Prospective students: Promotional materials made available to prospective students and in open format on home page of institution's website ED: GE Disclosure Template	An open format is one that is platform-independent, machine readable, and available to the public without restrictions that would impede the reuse of that information Final rules published 10/31/14 in the *Federal Register* modified the disclosures schools must provide annually. Under the new provisions, ED annually will publish a *Federal Register* Notice detailing the required gainful employment program disclosures. Until 1/1/17, institutions must comply with the disclosure provisions in 668.6(b). Disclosure provisions in 668.412 became effective 1/1/17.
Graduate or professional education in which graduates from institution's 4-year degree programs enroll	HEA 485(a)(1)(S) 668.41(d)(6) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Lender assistance in preparing or providing educational counseling, financial literacy, or debt management materials	HEA 487(e)(6)(B)(ii) 601.2 601.21(c)(6)(ii)	At time the educational counseling, financial literacy, or debt materials provided	Education loan borrowers	On educational counseling, financial literacy, and debt materials	
Missing student notification	HEA 485(j)(1) 668.46(h)(2) *FSA Handbook*, Vol. 2, Ch. 6	Within 24 hours of determination student is missing	Contact person if one designated, missing student's custodial parent or guardian if student is under 18 years old and not emancipated, and local law enforcement agency with jurisdiction in the area	Any method that directly provides the required notification within the 24-hour timeframe	This requirement applies if the institution has any on-campus student housing facility. See the discussion of missing student notification procedures in the *Federal Register*, 10/29/09, pp. 55912 to 55913.
Net Price Calculator	HEA 132(h) GEN-13-07 *FSA Handbook*, Vol. 2, Ch. 6	On-going	Enrolled and prospective students, their families, and other consumers	Website	This requirement applies if the institution enrolls full-time, first-time degree- or certificate-seeking undergraduate students.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Notice to victims of dating violence, domestic violence, sexual assault, or stalking of their rights and options	HEA 485(f)(8)(C) 668.46(b)(11) *Federal Register*, 10/20/14, pp. 62783 to 62790 (for changes to 668.46 effective 7/1/15)	Upon notification that student or employee was a victim of dating violence, domestic violence, sexual assault, or stalking	Student or employee who is a victim of dating violence, domestic violence, sexual assault, or stalking	Written notification	Requirement added by P.L. 113-4.
Notice to enrolled students of the availability of consumer information	HEA 485(a)(1)(H),(c) 668.41(a),(c) *FSA Handbook*, Vol. 2, Ch. 6	Annually	Enrolled students	Direct mailing through U.S. Postal Service, campus mail, or email	
Official withdrawal procedures	HEA 485(a)(1)(F) 668.22(k) 668.43(a)(3) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Outcome of institutional disciplinary proceedings against alleged perpetrator of dating violence, domestic violence, sexual assault, or stalking	HEA 485(f)(8)(B)(iv)(III) 668.46(k)(2)(v)	After any initial, interim, and final decision by any official or entity authorized to resolve disciplinary matters within the institution	The accused and accuser	Written simultaneous notification to both the accused and the accuser	This requirement was modified by the VAWA. See the related discussion in the *Federal Register*, 10/20/14, pp. 62783 to 62790. Guidance on what constitutes "written simultaneous notification" will be included in ED's updated *Handbook for Campus Safety and Security Reporting.*

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Penalties for drug violations	HEA 484(r) HEA 485(k) *FSA Handbook*, Vol. 2, Ch. 6	Upon enrollment	Enrolled students	Paper or electronic	If a student loses eligibility due to conviction for drug-related offense, the institution must inform the student of ways he or she may regain eligibility.
Personnel responsible for providing consumer information	HEA 485(a)(1)(H),(c) 668.43(a)(8) 668.44 *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Placement and types of employment obtained information of degree- or certificate-program graduates	HEA 485(a)(1)(R) 668.41(d)(5) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395. The institution must identify the source(s) of the information and must disclose any placement rate the institution calculates.
Placement rate information if rate used to attract students	HEA 487(a)(8) 668.14(b)(10)	Before or at time of application for enrollment	Prospective students	Paper or electronic	The disclosure includes the most recent available data concerning employment and graduation statistics, and relevant state licensing requirements.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Preferred lender arrangement annual report	HEA 153(c)(2) 601.2 601.20	ED: See *Comments* Others: Upon request	ED, enrolled and prospective students and their families, the public	See *Comments*	At the time these materials were finalized, ED had not determined the report's format and due date.
Preferred lender list and disclosures	HEA 487(a)(27), (h)(1)(A)-(C) 601.2 601.10(d) 668.14(b)(28) *FSA Handbook*, Vol. 2, Ch. 6	For any year in which a preferred lender arrangement exists with a private education loan lender, must annually compile and make available	Enrolled students and their families	List may be paper or electronic; disclosures must be part of preferred lender list	See the *Federal Register*, 10/28/09, p. 55630 for discussion of preferred lender lists.
Private education loan disclosures if preferred lender arrangement exists	HEA 153(c)(1) 601.2 601.10(a)(2),(b),(c) *FSA Handbook*, Vol. 2, Ch. 6	Annually so students or their families can take the information into account before selecting a lender or applying for an education loan	Enrolled or prospective students and their families	On website and in all information materials that discuss education loans distributed to enrolled or prospective students or their families Information materials may include a link to a website containing the disclosures if they also identify the institutional contact for requesting a print copy of the disclosures	Information materials are publications, mailings, or electronic messages. See the related discussion in the *Federal Register*, 7/28/09, p. 37439.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Private education loan disclosures if provide information about a private education loan from a lender to a prospective borrower	HEA 152(a)(1)(B) 601.2 601.11 *FSA Handbook*, Vol. 2, Ch. 6	When providing private education loan information from a lender so borrower can take the information into account before selecting a lender or applying for a private education loan	Prospective private education loan borrower	Paper or electronic	The requirement applies regardless of whether a preferred lender arrangement exists.
Private Education Loan Applicant Self-Certification form and information needed to complete it	601.11(d) 668.14(b)(29) GEN-13-15 *FSA Handbook*, Vol. 2, Ch. 6	Form and required information upon request from a private loan applicant	Private loan applicant	School may post exact copy of self-certification form on its website for applicants to download, or it may provide them a paper copy directly	A lender must obtain a signed, completed self-certification form from the loan applicant before initiating a private education loan. The school also must provide the student's cost of attendance (COA) and estimated financial assistance (EFA) information necessary to complete the form.
Programs to prevent dating violence, domestic violence, sexual assault, and stalking	HEA 485(f)(8)(A)(i) 668.46(b)(11),(j) *Federal Register*, 10/20/14, pp. 62783 to 62790 (for changes to 668.46 effective 7/1/15) *FSA Handbook*, Vol. 2, Ch. 6	See *Annual security report*	See *Annual security report*	See *Annual security report*	Required part of annual security report. Disclosure modified by P.L. 113-4.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Refund policies	HEA 485(a)(1)(F) 668.43(a)(2) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Registered sex offender's information	HEA 485(f)(1)(I) 668.46(b)(12) *FSA Handbook*, Vol. 2, Ch. 6	See *Annual security report*	See *Annual security report*	See *Annual security report*	Required part of annual security report.
Reimbursements for service on advisory boards	HEA 485(m) *FSA Handbook*, Vol. 2, Ch. 3	Annually	ED	Report	

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Report on athletic program participation rates and financial support data	HEA 485(e),(g) 668.41(c)(1),(g) 668.47 *FSA Handbook*, Vol. 2, Ch. 6	Report must be made available annually no later than 10/15 Enrolled and prospective students and the public: Upon request ED: Within 15 days of making report available to enrolled and prospective students and the public	Enrolled and prospective students, the public, and ED	Enrolled students: Publication provided through U.S. Postal Service, campus mail, or email; intranet or Internet posting if notice to individual of the report's availability includes the exact website address, a brief description of the report, and a statement that institution will provide paper copy upon request Prospective students: Notice of report's availability including a brief description of the report; if report posted to the Internet, notice must include the exact website address and a statement that institution will provide a paper copy upon request Public: Paper or electronic ED: Equity in Athletics Disclosure Act (EADA) website	The requirement applies if the institution is a co-educational institution and has an intercollegiate athletic program. See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Report on completion or graduation rate and transfer-out rate of student athletes	HEA 485(e) 668.41(f) 668.48 *FSA Handbook*, Vol. 2, Ch. 6	Prospective student-athletes and their parents, high school coach, high school guidance counselor: When offer athletically-related financial aid unless disclosure waiver applies based on institution's membership in national collegiate athletic association ED: Annually by 7/1	ED, prospective student-athletes, and the student's parents, high school coach, high school guidance counselor	Prospective student-athletes and their parents, high school coach, high school guidance counselor: Paper or electronic ED: IPEDS Web survey	The requirement applies if the institution awards athletically related financial aid. The transfer-out rate is required if the institution's mission includes providing substantial preparation for students to enroll in another institution.
Retention rate reported to IPEDS	HEA 485(a)(1)(U) 668.41(d)(3) *FSA Handbook*, Vol. 2, Ch. 6	Enrolled students: Information must be readily available Prospective students: Must make information available prior to enrolling or entering into any financial obligation with the institution	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Return of Title IV funds requirements	HEA 485(a)(1)(F) 668.43(a)(4) *FSA Handbook*, Vol. 2, Ch. 6; Vol. 5, Ch. 1	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Rights and responsibilities of financial aid recipients	HEA485(a)(1)(D),(K),(M) 668.42(c) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	The disclosure includes information regarding continued eligibility, disbursements, loans, and employment. See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Services and facilities for students with disabilities	HEA 485(a)(1)(I) 668.43(a)(7) 668.231(b), *Student with an intellectual disability*	Information must be readily available.	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
State grant assistance information	HEA 487(a)(9) 668.14(b)(11)	Timely so borrower can apply for available state aid	All enrolled eligible student borrowers	Paper or electronic	The requirement applies if the institution participates in the Direct Loan Program.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Teacher Education Assistance for College and Higher Education (TEACH) Grant exit counseling	686.32(c) *FSA Handbook*, Vol. 2, Ch. 6; Vol. 3, Ch. 4	Shortly before student ceases attendance or within 30 days of learning student has left school, withdrawn from a TEACH Grant-eligible program, or failed to complete exit counseling If enrolled in correspondence or study abroad program, within 30 days of completing the TEACH-Grant eligible program	TEACH Grant recipients	In person, audiovisual presentation, or interactive electronic means If enrolled in correspondence or study abroad program or otherwise fails to complete exit counseling, may use paper	ED-provided TEACH Grant exit counseling is available via National Student Loan Data System (NSLDS) Student Access website.
TEACH Grant initial counseling	686.32(a) *FSA Handbook*, Vol. 2, Ch. 6; Vol. 3, Ch. 4	Prior to first disbursement of first TEACH Grant	First-time TEACH Grant recipients	In person, online, or interactive electronic means If enrolled in correspondence or study abroad program, may use paper	ED-provided online TEACH Grant initial counseling is available on the TEACH Grant Counseling website at https://teach-ats.ed.gov/ats/expect.action#counseling.
TEACH Grant subsequent counseling	686.32(b) *FSA Handbook*, Vol. 3, Ch. 4	Prior to first disbursement of each subsequent TEACH Grant	Prior TEACH Grant recipients	In person, online, or interactive electronic means If enrolled in correspondence or study abroad program, may use paper	ED-provided online TEACH Grant subsequent counseling is available on the TEACH Grant Counseling website at https://teach-ats.ed.gov/ats/expect.action#counseling.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Textbook cost savings programs	HEA 133(f) *FSA Handbook*, Vol. 3, Ch. 2	See *Comments*	Enrolled students	See *Comments*	Institution is encouraged, but not required, to disseminate information.
Textbook pricing information	HEA 133(d) GEN-10-09 *FSA Handbook*, Vol. 2, Ch. 6	Each academic period	Enrolled students	Institution's online course scheduler or other website linked to online scheduler	ED may not regulate HEA 133.
Timely warning of campus crime and security issues	HEA 485(f)(1)(J)(i),(3) 668.46(c),(e) *FSA Handbook*, Vol. 2, Ch. 6	Occurrence of crime reported to campus security authorities or local police agencies that institution considers to represent a threat to students and employees	Campus community	Any method or combination of methods that quickly alerts the campus community	If the situation is one for which the institution follows its emergency notification procedures, a timely warning is not required.
Title IV credit arrangements	Federal Register, 10/30/15, pp. 67126 to 67201 GEN-16-16 *FSA Handbook*, Vol. 4, Ch. 2	Prior to disbursement for disclosures to students regarding options for having an account; annually posted for general disclosures including posting contract(s) and information regarding the arrangement(s)	Title IV recipients; Enrolled and prospective students; ED	Website, some information must be disclosed in a template to be provided by ED	Applies to institutions that have a T1 or T2 arrangement for servicing, marketing, offering, or opening a student account to which Title IV funds are disbursed.

Disclosure	Sources	When Disclosure Must Be Made	Disclosure Recipient	Disclosure Method(s)	Comments
Title IV eligibility for study abroad	HEA 485(a)(1)(G), (N) 668.41(d)(2) 668.43(a)(9) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Transfer credit policies	HEA 485(h) 668.43(a)(11) *FSA Handbook*, Vol. 2, Ch. 6	Information must be readily available	Enrolled and prospective students	Paper or electronic	See the discussion regarding making information available in the *Federal Register*, 8/21/09, p. 42395.
Vaccination policies	HEA 485(a)(1)(V) *FSA Handbook*, Vol. 2, Ch. 6	Upon request	Enrolled and prospective students	Paper or electronic	
Verification requirements	668.53(b) *FSA Handbook*, pp. AVG, Ch. 4: Vol. 2, Ch. 6	Timely so applicant can complete verification by verification deadline	Applicants selected for verification	Paper or electronic	
Voter registration forms	668.14(d) GEN-13-17 *FSA Handbook*, Vol. 2, Ch 6	Within 120 prior to the deadline for registering to vote within the state for general and special elections for federal office and elections of governors and other state chief executives	Enrolled students	Paper or electronic Non-Title IV eligible students: Forms must be widely available Title IV eligible students physically: Direct distribution	Requirement does not apply if the institution is located in a state that has implemented the “motor voter” provisions of the National Voter Registration Act of 1993 [42 U.S.C. 1973 gg-2(b)], Puerto Rico, Guam, the Virgin Islands, or American Samoa.

From: Julio Agosto
To: Rulecomments
Subject: Proposed Rules - Deceptive Advertising by For-Profit Educational Institutions
Date: Monday, April 1, 2019 2:09:03 PM

Dear Sir or Madam:

My name is Julio A. Agosto and I am a lifelong resident of New York City. I am writing this letter to express my opposition to the proposed rules the New York City Department of Consumer Affairs (DCA) is considering implementing on for-profit colleges. The proposed rules negatively affect my alma mater, Berkeley College a truly exceptional educational institution.

I attended Berkeley College from 1995 to 1996; I worked very hard there and I had a great experience. I graduated magna cum laude with an Associate in Applied Science in accounting. After graduating from Berkeley College, I went on to get a Bachelor of Science in accounting from St. Francis College in Brooklyn, NY (another outstanding NYC educational institution). My education from Berkeley College helped me to perform exceptionally well at St. Francis and I ended up with a full academic scholarship; and I again graduated magna cum laude.

After graduation from St. Francis College I went on to get my Certified Public Accountant license from New York State. Later on, I also obtained a Certified Government Financial Manager certification from the Association of Government Accountants. I then went on to get a Master of Business Administration from Western Governors University, an online university headquartered in Salt Lake City, Utah.

Berkeley College was an excellent stepping stone that enabled me to thrive in my educational and professional career. My educational experience, which began at Berkeley College, has enabled me to find accounting and auditing positions at companies such as JP Morgan and Deloitte & Touche. Currently I am a Senior Auditor at the United States Department of Health and Human Services, Office of the Inspector General.

Berkeley College also has a great alumni institute. The Berkeley College Alumni Institute offers phenomenal workshops on topics such as Microsoft Office tips and tricks, business writing, job interview skills, etc. I recently attended an advanced Microsoft Excel training workshop for alumni that was very useful to me in my current position. The college also sponsors networking events that I have enjoyed attending.

For these reasons I believe that Berkeley College is an exceptional educational institution for people that are willing to put in the hard work that success requires. This is why I vehemently oppose the proposed rules the DCA is considering implementing on for-profit colleges like Berkeley College.

Sincerely,

Julio A. Agosto, CPA, CGFM, MBA
Audit, Accounting, and Tax Professional
Lets Connect on LinkedIn

LIM COLLEGE

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April 4, 2019

Casey Adams
Director of City Legislative Affairs
New York City, Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

Re: Comments on NYC DCA Proposed Rules Regarding Deceptive Trade Practices of For-Profit Educational Institutions

Dear Mr. Adams,

As the President of LIM College and a member institution of the Association of Proprietary Colleges (APC), I am writing to express my concerns with the rules proposed by the New York City Department of Consumer Affairs ("NYC DCA") to regulate the speech and practices of certain for-profit educational institutions.

I request that the proposed rules be modified to ensure that degree-granting proprietary colleges are exempt from any rules or regulations put forward by the NYC DCA related to for-profit schools, given that our institutions are colleges, not "schools," and are currently regulated by both federal and State government.

The proposed rules appear to be focused on proprietary schools – meaning non-degree schools that offer certificate programs. However, the actual language of the proposed rules clearly indicates that they would not apply to non-degree schools licensed by the Bureau of Proprietary School Supervision (BPSS), but rather to degree-granting for-profit colleges exempt from such licensure because they are otherwise regulated by the New York State Education Department.

The DCA proposed rules also repeatedly refer to your agency's intention to provide oversight and accountability for "unregulated schools" operating in New York City. In providing the below background information on the history and mission of LIM College I would like to illustrate the extent to which our institution is a highly regulated and respected college that has been operating with distinction in Manhattan for 80 years.

LIM College History & Mission

LIM College was founded under the name Laboratory Institute of Merchandising in 1939 by Maxwell F. Marcuse and two colleagues from the fashion industry. Marcuse, a graduate of the

City College of New York, had been an advertising manager at R. H. Macy & Company and then the advertising director of Oppenheim Collins, a group of women's specialty stores. As a retailing executive, Maxwell Marcuse had an interest in education, and his concern about proper training led him to work on the establishment of New York University's School of Retailing. In addition, as a member of the Board of Higher Education of the City of New York, Marcuse was actively involved in the establishment of Queens College and the development of Brooklyn College on its present campus. Respecting Marcuse's experience in both retail and education, a group of retail executives from Saks Fifth Avenue, Macy's, Bloomingdale's, Gimbels, and B. Altman approached him with the idea that he should organize a program that would train women for a career in retail management. Marcuse founded the Laboratory Institute of Merchandising and incorporated in it what were then the unique concepts of cooperative education and instruction by adjunct faculty from the industry. In the 1940s, 50s, and 60s, LIM offered certificates to women interested in fashion merchandising with the goal of preparing them for retail positions, primarily in the management-training programs of major retail companies such as Macy's, Bloomingdale's, and Saks Fifth Avenue.

Maxwell's son, Adrian G. Marcuse, who had experience in both marketing and retailing, as well as an M.S. from the Massachusetts Institute of Technology, joined LIM in 1962, and from 1972 to 2002, he served as president and CEO. As the College continued to evolve to meet the needs of both students and industry, associate degree-granting powers were approved in early 1972. Soon after, LIM became the first proprietary college to receive accreditation from the Middle States Commission on Higher Education in 1977. Authority to grant a Bachelor of Professional Studies degree (B.P.S.) was approved in 1983, with the first bachelor's degree being awarded in 1985. In 1996, LIM was authorized to grant a Bachelor of Business Administration degree (BBA) in Fashion Merchandising. Authority to grant a Bachelor of Business Administration degree in Marketing (1998), Visual Merchandising (2003), and Management (2005) followed. During his Presidency, Adrian was a founding member of what is now the influential statewide association known as APC Colleges. He spent a great deal of time in Albany working with New York State officials on advancing the proprietary sector of higher education. He also went on to serve as a Trustee and member of the Executive Committee of the Association of Colleges and Universities of the State of New York and he was active in several higher education professional organizations.

After spending nearly two decades building a successful career in fashion retailing and apparel manufacturing, including as the former Director of Retail Planning for Donna Karan International, I became President in 2002 upon the retirement of my father, Adrian, and I represent the third generation of dedicated Marcuse family leadership of the College. Under my guidance, Laboratory Institute of Merchandising became LIM College in 2009, a decision undertaken after an extensive re-branding effort. I have worked to lead the College through a period of incredible strategic growth in enrollment, physical presence, and academic mission, while at the same time working to ensure that our student body is more geographically and ethnically diverse. Most notably, I have overseen LIM's ascension to become a master's degree-granting institution, leading to the development of unique Masters of Professional Studies (MPS) programs in Fashion Marketing, Fashion Merchandising & Retail Management, Global Fashion Supply Chain Management, and The Business of Fashion. I have also had the opportunity to oversee the development of the College's first Bachelors of Science (BS) degree programs, in

International Business and Fashion Media, as well as the launch of several of our programs in a fully online format. I also serve on the Advisory Board of Fashion Group International and I am member of the Board of Trustees of APC College, where I have been an active advocate for higher education issues on both the state and federal levels.

I am sharing this detailed history with you because I believe it is important to demonstrate that LIM College and the Marcuse family have played a long-standing and significant role in the development of fashion business education, experiential education, and the wider higher education community here in New York City and throughout the state.

While LIM College has grown in size and evolved educationally, the original mission—to educate students through a practical hands-on curriculum and consistent exposure to the fashion industry —has been unaltered. The interest and cooperation of the fashion and related industries have made LIM the successful college that it is. LIM College has sought and continues to receive the backing and recognition of the fashion industry through its support of the College's cooperative education curriculum, the willingness of fashion executives to serve on the advisory board, the provision of capable instructors and guest speakers, and, most significant, the acceptance of LIM's graduates into the fashion industry.

Today LIM College educates approximately 1,800 students annually in eight undergraduate degree programs and four graduate programs of study. The College has become a recognized leader nationally and internationally in the business of fashion, drawing students from 43 states and 37 different countries.

Accreditation

As I mentioned previously, in 1977 LIM College became the first proprietary college to receive regional accreditation from the Middle States Commission on Higher Education (MSCHE). Regional accreditation is widely recognized as the highest level of general institutional accreditation for colleges and universities in the U.S. Credits earned from regionally accredited institutions are also more widely accepted and thus more readily transferable. LIM has maintained our regional MSCHE accreditation for over 40 years and through the required periodic Self-Study institutional review process our accreditation was recently reaffirmed with commendation in 2017. The strength of our curriculum and academic programs has also been further affirmed via specialized accreditation of our business degree programs by the Accreditation Council for Business Schools and Programs.

Experiential Education and Industry Connections

Located in the heart of New York City —the nation's fashion and business capital —LIM College provides students with innumerable opportunities for firsthand experience and professional development. The College is widely recognized as a pioneer in experiential education known for fostering a unique connection between real-world experience and academic study in business principles. We require undergraduate students to complete 12 credits of experiential education in the form of focused career building seminars and 3 mandatory internships. During their first few years students intern in a retail and corporate setting for a total of at least 260 hours. During their final semester, students spend a minimum of 28 hours a week in an internship related to their specific career goals. Visits to fashion-related companies and guest lectures form industry professionals also expose students to a multitude of career options.

The College has exceptionally strong ties to the fashion industry and works closely with our Fashion Industry Advisory Board members to continually fine tune and adapt our academic programs to meet the needs of employers and to deliver sought-after talent – making LIM College a strong economic driver and workforce pipeline for one of New York's most important industries. Comprised of successful senior executives from a broad range of areas in fashion and related industries, the Fashion Industry Advisory Board assists and advises the College in areas that include curriculum, long-range planning, and industry outreach. Board members also mentor students, host trips to industry sites, speak in class, hire LIM students and alumni, and help the College to identify emerging areas of study.

LIM College alumni number over 10,000, and many have gone on to excel at top companies, including, but not limited to: Barney's, Bloomingdale's, Calvin Klein, Coach, *Harper's Bazaar*, Kenneth Cole Productions, Lord & Taylor, Macy's, Michael Kors, Neiman Marcus, Nordstrom, Ralph Lauren, and Tommy Hilfiger. And despite the tumultuous economic conditions of the last 10 years and tremendous changes transforming the fashion industry, the employment rate of LIM College graduates has remained consistently high**.** For example, for the Class of 2017, 92% of undergraduates seeking employment secured positions throughout the fashion and related industries, with 97% of these alumni employed within 6 months of graduation. Among master's degree graduates seeking employment and who were eligible to work in the U.S., 90% secured positions in the fashion and related industries, with 87% of these alumni employed within 6 months of graduation.

LIM College is widely recognized in the fashion industry as being a leader in fashion business education for 8 decades – providing top talent and supporting the economic development of one of New York State's most important industries – with more than 900 fashion company corporate headquarters located in the NY Metro Area.

Accolades

LIM College is committed to ensuring that our students receive a highly valuable education that will serve as a strong foundation for professional success, within the most supportive environment possible. This focus and dedication has resulted in many external accolades:

- LIM College's online graduate degree programs were included in U.S. News & World Report's 2019 rankings of the Best Online Graduate Business Programs.
- The Princeton Review named LIM College to their "Best in the Northeast" list of colleges for 2019 -- the 14th consecutive year we have been recognized in this manner.
- For the past four years, Phi Theta Kappa, the oldest, largest and most prestigious honor society recognizing students pursuing two-year degrees, named LIM College to its "Transfer Honor Roll" as one of the 40 top colleges nationwide creating dynamic pathways to support students transferring from community colleges.

- In 2017, *The Business of Fashion's* Global Fashion School Rankings placed LIM College among the Top 10 institutions in the world for graduate business education in fashion.
- LIM was ranked in the top 10% of value-added four-year colleges in the U.S. in a 2015 study by the Brookings Institution.

These distinctions are the types of recognition that any college would be proud of and affirm that we are a respected college in the full sense and weight of that word and not an "unregulated school" that is somehow exempt from direct oversight or regulation. These third-party validators all attest to the quality and established reputation of our education programs. And several of these accolades are based largely on the feedback of current and former LIM College students.

In Conclusion

I thank the New York City Department of Consumer Affairs for the opportunity to express my concerns with this proposed rule and reiterate my request that **the proposed rules be modified and that degree-granting proprietary colleges be exempt from any rules or regulations put forward by the NYC DCA related to for-profit schools.**

I, in conjunction with our Association (APC), have consistently worked hard at the federal and State level to ensure students are protected, college remains affordable, and that rules and regulations benefit students or improve education quality. These proposed rules do not protect students nor do they ensure program or education quality. Moreover, we strongly believe these rules are beyond the authority and jurisdiction of NYC DCA.

Sincerely,

Elizabeth S. Marcuse
President
LIM College

The Business Council

Heather C. Briccetti, Esq.
President & CEO

April 3, 2019

Mr. Casey Adams
Director of City Legislative Affairs
New York City, Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

Re: Testimony on NYC DCA Proposed Rules Regarding Deceptive Trade Practices of For-Profit Educational Institutions

Dear Mr. Adams:

On behalf of The Business Council of New York State, Inc., I am submitting testimony in opposition to the "Deceptive Advertising by For-Profit Educational Institutions" rules as proposed by the New York City Department of Consumer Affairs (DCA).

The Business Council of New York State is the State's leading business advocacy organization with approximately 2,300 members across the state, representing businesses, non-profits, and institutions of higher education.

Berkeley College, with a campus in Manhattan, has been an exemplary civic partner with organizations throughout New York City and State. They are part of the institutional fabric of the State, similar to the prestigious non-profit universities that also call New York home. Unlike their non-profit counterparts in higher education, Berkeley pays property tax to the City of New York. However, that is the extent of how they are dissimilar. Berkeley College is accredited by the Middle States Commission on Higher Education, the same accreditation awarded to NYU and Columbia University. The issue with the premise and intent of this proposed Rule is the assumption that Berkeley is a for-profit business, and not an institution of higher education, but that is not the case. Their admissions staff are not sales people.

The DCA's authority is limited to a variety of merchants of consumer goods and services, like cigarette dealers, ticket sellers, locksmiths, and other businesses dealing with goods or services for personal or household use. The DCA should not have jurisdiction over higher education because education has never been considered a consumer good or service under State or Federal law.

Institutions of higher education in New York are regulated by the New York State Education Department (SED), which has some of the most stringent accreditation regulations in the country. It should be noted that the cases of publicly traded for-profit and online colleges that have made national headlines about low completion rates and high student loan debt are not accredited by SED for a physical presence in New York, although New York students can enroll in them. Conversely, the for-profit college sector in New York, according to the US Department of Education data, generates lower student loan debt for graduates and higher degree completion rates.

Berkeley College has been an engine of upward mobility for students for more than 80 years in New York City. They are proud to be among the top colleges in the nation – ranking 9th of 158 colleges in New York State – for helping graduates move up the income scale. I have witnessed first-hand how seriously Berkeley College takes graduation and career placement and assistance. The graduates they produce are exactly the type of graduate Business Council member companies look to employ.

The rules proposed by the New York City Department of Consumer Affairs are detrimental to the more than 2,500 undergraduate students of Berkeley College's New York City campuses. There is no logic in the singling out a handful of institutions, and not proposing these same rules to all colleges and universities.

In summary, the unfair usurpation of regulatory authority is misleading to the public, and the DCA has no authority to impose regulations on institutions of higher education in the State of New York. It even acknowledges in its report that its recommendations would require action in conjunction with New York State or federal government. The New York City Department of Consumer Affairs cannot take these actions on its own because it has no regulatory authority over institutions of higher education, and it should remain that way.

Sincerely,

Heather C Brocca

/am

Thursday, April 4, 2019

Casey Adams
Director of City Legislative Affairs
New York City Department of Consumer Affairs

RE: Testimony of Charles Callahan IV, COO of Plaza College, as Prepared for Delivery

Dear Mr. Adams,

As requested, please see the official testimony submitted by Charles Callahan IV, Chief Operating Officer of Plaza College, on behalf of Plaza College at the public hearing on April 4, 2019.

Please let me know if you have any questions.

Best Regards,

Charles E. Callahan IV

INTRODUCTION

Good morning. My name is Charles Callahan IV. I am the Chief Operating Officer of Plaza College, a degree-granting proprietary college located in the Queens neighborhood of Forest Hills, at the intersection of Queens Boulevard and Jackie Robinson Parkway. I hold two degrees in Accounting and Finance, an MBA, as well as a CPA. I'm proud to come here today to tell you who I am, who Plaza College is, who we serve, and why we oppose these proposed regulations.

HISTORY

Plaza College was founded in Long Island City as Plaza Business Institute in 1916 by my great-grandfather, the first of four Charles Callahans to lead Plaza College, and my great-grandmother, Anna Callahan, with the intention of serving women who needed an education and a pathway to a career at a time when many men were away from home serving in World War I. Our first academic program was something called the collegiate secretarial program, and had about 20 students enrolled. Fast forward 103 years later to today, Plaza College is accredited by the Middle States Commission on Higher Education and holds four, stand-alone, programmatic accreditations. Throughout the last century, the college has grown despite many obstacles and hurtles. In 2014, a fire destroyed our former campus in Jackson Heights. Although our community was entirely unscathed, every desk, chair, computer, and book were incinerated. Most businesses would fold under that kind of pressure. But because of the resolve of our community and frankly, the Callahan leadership, our college reopened a brand-new campus in just 85 days. When we reopened, over 200 students were provided full scholarships by Plaza for an intense summer mini semester which allowed over 75 students to graduate so they could begin their careers on time.

PLAZA COLLEGE'S VALUE TO STUDENTS

Plaza College provides education and valuable degree programs for students who have committed to take concrete steps to move forward in their careers. Many of our students are older than typical incoming freshman (average age is 27), and one-third have experienced community college before attending Plaza.

These are young women and men who are serious about entering or continuing their chosen fields, with many having already worked in the industry they are studying and choose Plaza College to advance in their professions. 88% of our students are from minority groups, 80% are women and 91% live in New York City. We have an on-time graduation rate of 64% and a 1% student loan default rate.

In fact, the New York State Education Department has repeatedly selected Plaza College to absorb students, faculty, and programs from schools and colleges that have closed (either voluntarily or by state action), to great success. These schools include New York Career Institute, Bramson Ort, and TCI.

In 2017, Plaza College made history by becoming the first college in Queens to offer a degree in the highly sought-after field of Dental Hygiene. Offering a program of this nature requires that the college construct a state of the art 20 chair dental clinic for the training the hygienist students under the care of licensed dentists. The clinic is now open and offers free or low-cost dental care to members of the public. This past semester, the clinic saw over 1,000 patients including 75 children under the age of 12.

Having been personally involved with the development of this program, I can tell you the programmatic accreditor known as the Commission on Dental Accreditation, or CODA, for short, looked into every single aspect of the College. They reviewed our financial statements which showed that the College maintains no debt, met with students and we were ultimately granted accreditation with zero findings.

The dental hygiene program is one of ten academic degree programs we offer: The others include medical assisting, business administration and court reporting. Recently, the director of our court reporting program published an article in a national legal publication describing that when she first started out in the business, she was one of only two women among the 20 male court reporters in the Queens County Courthouse. Today, the Plaza College court reporting program is made up of 90% women, providing good career prospects in a growing field with numerous opportunities.

In order to ensure that our students are well-prepared to enter our programs and to ensure that they feel supported and confident in knowing what to expect, we do sometimes need to maintain regular contact with our applicants.

During the admissions process for the Dental Hygiene program, for example, we have to meticulously comb through hundreds of applications for each enrollment cycle. It's an extremely competitive program which requires no fewer than 5 visits to the campus before a student can enroll: an application completed in person, attendance in a programmatic workshop, two separate tests conducted on site, a review of transfer credits, and an interview with the dental hygiene committee.

I bring this up because the proposed regulations would impose a counter-productive requirement that the college not call students more than twice in a seven-day period. Not only would this create confusion in the application process and leave students without necessary support, it would make our jobs to counsel students nearly impossible.

Plaza College is committed to the goal of educating and preparing our students to be the most successful they possibly can in their chosen fields. We are proud of the work we do, we are proud of our many students and graduates, and we are proud of the incredible staff that dedicate countless hours to improving the lives of the thousands of Plaza College students and alumni.

Testimony of Charles Callahan IV, COO of Plaza College, as Prepared for Delivery

Thursday, April 4, 2019

INTRODUCTION

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April 4, 2019

Casey Adams
Director of City Legislative Affairs
New York City, Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

My name is Crystal Campbell, and I am an Army Reservist that is currently a student at Berkeley College expected to graduate this May 2019. I began my experience at Berkeley College the year 2007 when I first graduated high school, due to extraneous circumstances I had to move and was unable to continue at Berkeley at that time. A few years later I joined the military, soon after I left Active Duty army and joined the Reserves. Around 2016 I decided to complete my goal of earning my bachelor's degree because if it is one lesson I have learned from being in the military is never to quit. I decided to finish where I began so I enrolled back at Berkeley College. So far my personal learning experience at Berkeley College has been nothing but excellent. The Professors are amazing; they are very professional and knowledgeable. They also take the time to ensure their students comprehend their lessons; they are indeed here to help the students, in whichever way they can. The programs in the school that highlights their efforts concerning their students include the school's Veterans' services, the Center for Academic Success and Career Services. I can mention these because I have had the pleasure of utilizing these services. The school has one of the best Veteran's services offered to any college; they have ensured that Veterans who understand the Veteran experience manages our programs. I can attest to their dedication because of all they have assisted me with over the past three years. Berkeley's Veteran's program is one of the most efficient and reliable; I was even able to find my apartment because of the help of Agatha who works for the Veteran's department at Berkeley College's New York Campus; they go above and beyond to watch us succeed. The school's Center for Academic Success is a service in which the school provides tutoring in person or online free of charge to students who have any questions on a particular subject. This program has aided me in many ways while attending the school; if the Center for Academic Success is unable to answer an inquiry, the Professor provide office hours in which the students can receive extra help. Also, the Career Service department did not only assist me in creating my resume they connected me with a proper internship and followed up with me for job leads that might interest me; to me, these are all signs of genuine care from Berkeley's staff. They have always given me the utmost respect and try their best to resolve any issues I encounter. I am currently disappointed in hearing that the school's reputation is being tarnished due to certain accusations of them being "a predatory school," I can only speak from my perspective, and so far, I have to disagree on those claims based off my experience at Berkeley college. I am against the regulations being proposed on due to unfair characterizations that it is making out Berkeley College to be compared to other colleges. Thank you so much for you're hard work and dedication and for taking time out to read this letter.

V/R,

Crystal Campbell

Comments from Yan Cao, Fellow, The Century Foundation

Re: New York City Department of Consumer Affairs (DCA), Proposed Rule Amendment: Deceptive Advertising by For-Profit Educational Institutions - Reference Number: 2018 RG 127

Submitted: via email to rulecomments@dca.nyc.gov, April 4, 2019

Commissioner Salas:

Thank you for this opportunity to comment on the New York City Department of Consumer Affairs's (DCA's) proposed rules regarding Deceptive Advertising by For-Profit Educational Institutions ("Proposed Rules").

The Century Foundation (TCF) is a progressive, nonpartisan think tank that seeks to foster opportunity, reduce inequality, and promote security at home and abroad. Our education program addresses issues of school diversity, college affordability, consumer protection, and accountability. In addition to publishing research relating to higher education and for-profit colleges, TCF has reviewed numerous local, state, and federal policies that seek to stem abuses by predatory for-profit post-secondary institutions.

In its role as the agency charged with implementing New York City's Consumer Protection Law, DCA has, over multiple administrations, served a number of important consumer protection functions regarding for-profit schools, including:

- conducting investigations and enforcement actions to challenge predatory practices by for-profit colleges within New York City;
- researching and disseminating information regarding the correlation between attending for-profit colleges and negative financial outcomes, including student loan default and forced collection;
- providing financial empowerment resources to the low-income communities that are most-harmed by predatory debt associated with for-profit colleges;
- reviewing hundreds of consumer complaints detailing various anti-consumer practices concentrated within the for-profit sector of higher education; and
- sponsoring a public education campaign through the "Know Before You Enroll" initiative.

These efforts, and additional research detailed below, underscore the need for a multi-faceted approach to protecting consumers from harmful practices by the for-profit education sector. The Proposed Rules supplement—but cannot replace—these other initiatives.

The following comments regarding DCA's Proposed Rules draw from research and the experiences of practitioners who are familiar with the predatory recruitment practices of for-profit schools.

I. DCA Should Ensure That Required Disclosures Can Be Accessed by Educators, Policymakers, and the Public

a. Research Suggests Limited Value of Consumer-Facing Disclosures

Informational disclosures, without additional protections, have limited impact as a consumer protection tool. Attached is a comment from economic researchers that summarizes academic research on the effectiveness of existing informational tools, such as the College Scorecard, on shaping consumer choice.[1] Notably, the release of College Scorecard, a federal consumer information resource had "no impact . . . on the college applications of students in less-affluent high schools, those with lower levels of parental education, and underserved minority groups."[2] Students have difficulty understanding the financial terminology of College Scorecard. Many students believed that the loan repayment information provided was irrelevant, and were not convinced that averages would be predictive of their own experience. While data and transparency can be important tools for consumers, educators, and policymakers, the complex nature of higher education metrics require actions beyond consumer-facing disclosures.

Therefore, DCA should ensure that required informational disclosures are reported and collected in a format that is made available for public review.

b. For-Profit Recruitment Practices Can Further Undermine the Effectiveness of Disclosures as a Consumer Protection

Without further protections, mandatory disclosures can perversely lead profit-motivated organizations and recruiters to become even more creative in their sales pitches in order to overcome the doubt and suspicions of potential students. Recruiters commonly use oral statements to undermine the effectiveness of written disclosures. A joint comment from a coalition of legal services organizations noted that:

> Even when schools have students sign or initial disclosures and waivers among the stacks of paperwork enrolling students are required to sign, hundreds and thousands of our clients have told us that they were made promises at enrollment that bear no similarity to any such paperwork.[3]

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[1] Sandra E. Black et al., "Comment on FR Doc # 2018-17531" (Economic research comment), September 12, 2018, *available at* https://www.regulations.gov/document?D=ED-2018-OPE-0042-13499.

[2] *Id.* Citing Hurwitz, Michael and Jonathan Smith, "Student Responsiveness to Earnings Data in the College Scorecard," *Economic Inquiry* 56, no. 2 (2018): 1220–43.

[3] Comments from the Legal Aid Community to the Department of Education re: Proposed Regulations on Borrower Defenses and Use of Forced Arbitration by Schools in the Direct Loan Program, and Proposed Amendments to Closed School and False Certification Discharge Regulations at 41-42, Docket ID ED-2018-OPE-0027, August 30, 2018, available at

An additional tactic by recruiters is to bury required disclosures among other information that can be presented in a more flattering light. For example, the Center for Responsible Lending has documented one practice that for-profit schools use to mask low earnings data. Recruiters were trained to downplay a required disclosure that graduates from a particular medical assistant program earned only $19,497—less than the average for a high-school degree holder.[4] Instead, recruiters were trained to always highlight that, according to the Bureau of Labor Statistics, the median earnings for medical assistants is $32,480.

Recruiters and financial aid staff who are motivated to meet sales targets and trained in sales tactics are often able to defeat the effectiveness of informational disclosures. This underscores the need for clarity around the role and incentives of recruiters and financial aid staff, as discussed below.

II. DCA Should Strengthen Prohibition on Misleading Usage of "Counselor" and "Advisor" Designations, and Require Disclosure of Conflict

Education is a trust product. The use of titles like "counselor" and "advisor" can be misleading when applied to admissions and financial aid representatives who are paid like salespeople working on commission.

In a recent lawsuit, former "admissions counselors" of Berkeley college alleged that each employee of Berkeley's Admissions Office was evaluated "solely on the number of students they each successfully enrolled," and that "[s]alary increases, promotions and other employment-related decisions" were based primarily on whether admissions representatives were able to hit sales targets set by upper management. Furthermore, the former "admissions counselors" alleged that senior management encouraged admissions staff to misrepresent information regarding the costs of Berkeley's programs and to further misrepresent whether particular programs would help potential students achieve their educational goals.[5] The attached statements from members of the New York State Association for College Admissions Counseling (NYSACAC) further corroborate these allegations.

DCA's Proposed Rules would prohibit salespersons from being referred to as "counselors" or "advisors." However, for many potential students, the background impulse will be to trust representatives from a post-secondary institution. As one former student put it: "I trusted that my interests as a veteran and a student were being put first."[6] Particularly since New York does not

https://predatorystudentlending.org/wp-content/uploads/2018/08/Comments-from-the-Legal-Aid-Community-on-Proposed-Borrower-Defense-Rule-8.30.2018.pdf.

[4] Robin Howarth, Whitney Barkley, Robert Lang, "Gainful Employment and Credentialism in Healthcare Support Fields: Findings from the Gainful Employment Data, Website Disclosures, and a Focus Group of For-Profit College Borrowers," Center for Responsible Lending, June 2018, https://www.responsiblelending.org/sites/default/files/nodes/files/research-publication/crl-bitter-pill-jun2018.pdf.

[5] Complaint, *Estevez v. Berkeley College* ¶¶ 36-42, S.D.N.Y., 18-cv-10350, (filed Nov. 27, 2018), available at https://assets.documentcloud.org/documents/5030707/Estevez-et-al-v-Berkeley.pdf.

[6] "Testimony of Zachary Murray Hastie, Poughkeepsie Firefighter/EMT and Former Student at DeVry University, on His Own Behalf, Before the Joint Legislative Budget Hearing on Higher Education of the New York Senate

allow the proliferation of primary or secondary schools operated by for-profit corporations, students may be unfamiliar with the idea that a representative is functioning more as a salesperson than as an advisor.

Therefore, more is needed. DCA should strengthen the prohibition on the use of "counselor" or "advisor" in two ways. First, the prohibition should be expanded to cover financial counselors who are evaluated based on the number of students they are able to convince to take on federal or private student loan debt. Second, DCA should require individuals who fall under the expanded definition in Section (c)(7) of these Proposed Rules to affirmatively disclose that they have a conflict of interest, that they are evaluated in part based on their ability to meet sales targets, and that they have no obligation to provide information that is in the best interest of the potential student.

III. DCA Should Prohibit False Disparagement and Require Disclosures that Include Accurate Comparisons

Another troubling practice that has come to light through DCA's investigation is the false disparagement of community colleges by recruiters who are more focused on meeting enrollment targets than supporting the best outcome for the student.

For example, according to DCA's investigation, a Berkeley recruiter falsely disparaged CUNY Queens College by stating that a potential student would have to take out a loan to attend CUNY when, in fact, the likelihood of taking on student loan debt was much higher at Berkeley. In another instance, a Berkeley representative told a student who wanted to save money by transferring to CUNY that she would not be able to afford CUNY. According to DCA, Berkeley costs $12,950 per semester; CUNY costs $3,685.[7]

DCA should prohibit false disparagement of this nature, and consider requiring public-facing disclosures that display accurate information comparing median total costs, median cumulative debt, and median earnings for a for-profit institution and the most proximate public alternatives.

Thank you for your consideration of these comments.

For additional information, contact cao@tcf.org

Finance Committee and New York Assembly Ways and Means Committee, Regarding Part E of the Education, Labor and Family Assistance (ELFA) Bill, FY 2020 Article VII Budget Legislation, the 'For-Profit College Accountability Act,'" Monday, January 28, 2019, available at https://www.nysenate.gov/sites/default/files/testimony_given_by_the_century_foundation.pdf.

[7] *City of New York v. Berkeley Ed. Serv. of New York*, Supreme Court of the State of New York, New York County (filed Oct. 15, 2018) para 153 et seq., available at http://gothamist.com/2018/10/19/berkeley_college_lawsuit.php.

September 12, 2018

Docket ID: ED-2018-OPE-0042
Education Department
Program Integrity: Gainful Employment
FR Document: 2018-17531. Citation: 83 FR 40167. 08/14/2018
https://www.federalregister.gov/documents/2018/08/14/2018-17531/program-integrity-gainful-employment
RIN: 1840-AD31

Ashley Higgins
U.S. Department of Education
400 Maryland Ave. SW, Mail Stop 294-20
Washington, DC 20202

To Whom It May Concern:

We are writing in response to the Department of Education's notice of proposed rulemaking (NPRM) regarding Program Integrity: Gainful Employment (Docket ID ED-2018-OPE-0042). The NPRM proposes to rescind the existing Gainful Employment (GE) regulations, published in 2014 (hereafter "the 2014 GE rule"), which defined the statutory requirement that educational programs must "prepare students for gainful employment in a recognized occupation" to be eligible for title IV, Higher Education Act program funds.

In our comment, we argue that the Department's NPRM ignores a large and growing body of evidence documenting the poor employment and financial outcomes some students experience after enrollment at certain programs—failures to achieve gainful employment—and that the Department of Education (hereafter ED) failed to follow routine procedures directed by Executive Order to develop and justify its regulatory choices. Hence, we conclude that the ED's regulation action is arbitrary and capricious because it ignores evidence of the compelling public need for the 2014 GE rule, the evidence of the benefits of the existing regulatory approach, and fails to substantiate and consider the full costs and benefits of its proposed the regulatory change.

We are economists who have conducted research and participated in past federal policy making efforts on higher education, including research examining the economic returns to postsecondary educational investments, how institutional quality and institutional characteristics affect student outcomes, the effects of financial aid policy, and the measurement of student outcomes. We have published our research in top peer-reviewed economics and policy journals, serve as coeditors of high-impact journals (e.g., *American Economic Journal: Applied Economics, Educational Evaluation and Policy Analysis, Education Finance and Policy, Journal of Labor Economics*), direct research centers (e.g., Brookings Center on Regulation and Markets and the Institute for Research on Labor and Employment), participate in and/or lead professional organizations (e.g., National Bureau of Economic Research, Association for Education Finance and Policy), worked at high levels of government on the development of education and workforce policy (U.S. Department of Labor, U.S. Treasury Department, and the White House Council of Economic

Advisers), and teach graduate-level courses in related subjects (e.g., economics of education, benefit-cost analysis, and econometrics). Our research and expertise informs our comments below on the NPRM.

We are writing to express concern that the Department's new regulatory approach is arbitrary and capricious because it ignores substantial evidence of the need for and benefits of the 2014 GE rule in its NPRM and the regulatory analysis used in its support. Motivated by widespread and well-established concerns that too many students were leaving job training and career-oriented programs burdened by excessive debt and poor employment prospects, the 2014 GE Rule defined the statutory requirement that certain educational programs must provide training that prepares students for gainful employment in a recognized occupation in order for those programs to be eligible for title IV, HEA program funds. The existing rule was justified based on a compelling public need and designed based on a careful and robust consideration of the evidence.

The Department's NPRM makes two important, detrimental, but unsupported changes to existing regulations governing how and when federal financial aid can be used: 1) it removes the sanction regime in which poor-performing postsecondary programs lose eligibility to participate in Title IV student aid programs, and 2) it removes requirements that institutions actively disclose student outcomes in a way that ensures students receive information prior to enrolling or entering into financial aid commitments. Instead, it offers only an unenforceable promise that the Department will provide program information for students on a website in the future. Hence, the rule arbitrarily eliminates central accountability elements designed to protect the integrity of federal aid programs without establishing an alternative regulatory structure to do so.

These two changes will have large net economic costs relative to leaving the 2014 GE Rule in effect. As a result of these changes, more students will enroll in low quality educational programs that do not result in good-paying jobs, leading to lower earnings, higher expenditures on education and higher debt, and a greater likelihood of student loan default and other adverse credit outcomes. A substantial body of economic research shows that institutions vary considerably in their quality and value, with some gainful employment programs providing little economic value to students and/or resulting in poor financial outcomes. In addition, evidence demonstrates that accountability systems can improve student outcomes by limiting subsidies to low-quality institutions and redirecting enrollment elsewhere. In the specific case of the existing Gainful Employment rule, the institutions that would have been subject to the sanctions and active disclosure requirements offered low-quality, low-return educational investments, in both absolute terms and in comparison to institutions students would have attended were Title IV aid withdrawn. Hence, a key benefit of the 2014 GE rule is to improve the quality of institutions attended and the post-enrollment outcomes of students. Rescinding the rule and its accountability provisions turns these foregone benefits into costs to students.

Based on our synthesis of evidence from research studies summarized below, the new rule will reduce students' earnings and employment opportunities, burden them with student loans they will struggle to pay, and increase taxpayers' costs from unpaid or forgiven loans. These costs are likely to dwarf the costs of purported reporting burdens associated with compliance with the existing rule. The benefits of successive cohorts of students attending higher quality institutions are persistent, long lasting (e.g., they result in higher earnings over an entire working career), and regularly accruing (e.g., each year the lifetime earnings of a new cohort of students is improved). In contrast, the lion's share of the costs of compliance are one-time expenditures to adapt computer systems to new reporting requirements. Evidence on the magnitude of these costs to students and taxpayers is arbitrarily ignored by regulators in their justification for the new rule and in the analysis of its impact, leading to erroneous justifications for the new rule and inaccurate conclusions about the rule's economic impact.

Further evidence of the arbitrary nature of the NPRM is clear in the Department's regulatory analysis. Executive Order 12866 directs agencies to issue regulations "only when made necessary by a compelling public need," to only issue new regulatory policies when the benefit of the new policy is greater than its costs, and to choose the regulatory approach that maximizes net benefits. Judged based on the standards and procedures established in Executive Order and regulatory guidance (e.g., Circular A-4), the NPRM fails to establish a compelling need for the regulation, to measure the costs and benefits of the approach, or to weigh alternative approaches. Indeed, our reading of the evidence suggests that the NPRM would fail a cost benefit test and that alternatives—including not issuing the new regulation—would have larger net benefits than the proposed rule.

For instance, the rationale cited in the NPRM is to reduce compliance burden (83 FR 40177), but no evidence is offered to substantiate the claim that the 2014 rule was "more burdensome than previously anticipated (83 FR 40168)." Indeed, the impact analysis in the NPRM uses identical (differing by $1) estimates of burden cited in the 2014 GE rule. Further illustrating the fact that the Department is not using evidence to support its claimed rationale for this change, in response to a request for estimates of the administrative burden created by the 2014 rule at the negotiated rulemaking sessions, ED representatives replied "we don't currently have anything right now (https://www2.ed.gov/policy/highered/reg/hearulemaking/2017/day4getranscript.pdf, p.23)." If these costs were rigorously quantified they would surely be small relative to the benefits of the 2014 GE rule, which are ignored entirely in the NPRM.

The disclosure objectives described in the NPRM also can be achieved without modifying the accountability structure of GE. For example, the so-called Borrower Defense regulations required institutions to disclose repayment rates, illustrating that the ED Secretary has broad authority to require institutions to make disclosures. The 2014 GE rule also gives broad flexibility to Secretary to modify as sees fit, for instance by selecting the items to be disclosed, design or alter the disclosure template, and to establish the text for warnings to students (81 FR 65013-65014). Finally, the current rule suggests that rather than debt-to-earnings (D/E) ratios, disclosing earnings and debt separately would be preferable. As noted, the Secretary has authority to require such disclosures in the existing rule. The Department's expressed view in the NPRM that it would prefer to disclose program earnings separately from the D/E ratios, however, is at odds with their own action in January 2018 to end a requirement that GE programs disclose their graduates' earnings in the GE Disclosure Template (https://ifap.ed.gov/eannouncements/011918GEAnnounce110Rel2018GEDisclosureTemplate.html).

In this comment we make 7 arguments based on high-quality research studies—we provide full citations to the evidence we draw from and request the cited studies herein be included as part of our comment in the public record—and encourage the Department of Education to revise its regulatory approach accordingly.

1) The 2014 GE rule addresses an important and ongoing problem ignored in the NPRM: that large numbers of students enroll in occupational programs and leave with low earnings and loans that they cannot repay.

2) The 2014 GE regulations successfully target the programs that contribute most to this problem.

3) The 2014 GE regulations are based on appropriate and robust measures of student outcomes (debt and earnings) that are aligned with the problem addressed by the rule. ED's critiques of the debt-to-earnings measure are not supported.

4) If left in effect, the 2014 GE rule would improve economic outcomes of students by limiting federal financing of low-quality, low-performing institutions, and redirecting students to better-performing institutions. Access to college for low- and middle-income students is unlikely to be impaired. Rather, evidence suggests that students will enroll elsewhere if poorly-performing programs are closed. Students will benefit from higher earnings and fewer adverse borrowing outcomes, and federal costs will fall. By rescinding the rule, the NPRM has substantial net costs that are not adequately addressed in ED's impact analysis.

5) Information disclosures, while important, are insufficient to address the problems motivating the 2014 GE rule. Moreover, the NPRM eliminates requirements on institutions to ensure students receive disclosures, undermining the effectiveness of such provisions.

6) ED has not presented rigorous analysis and evidence to support its claims and its rationale for its proposal to rescind the 2014 GE rule despite having access to the data to do so.

7) GE accountability provisions are likely to be superior to alternate regimes under consideration. We recommend that the Department leave the rule in place as currently written. At a minimum, any changes to the rule that seek to reduce administrative burden should retain sanctions that include loss of Title IV aid-eligibility or similarly severe sanctions for poor-performing programs.

1) **The 2014 GE Rule Addressed an Important Problem Ignored by the NPRM.**

Forty-two million student borrowers collectively owe more than $1.4 trillion to the federal government for their student loans. In the past decade, there has been a dramatic increase in the number of American student-loan borrowers leaving college with high debt and low earnings. This combination results in unsustainable debt burdens that impose substantial costs on students and on federal taxpayers. According to estimates by Judith Scott-Clayton (2018a), nearly 40 percent of borrowers leaving school in 2004 may default on their student loans by 2023. When student loan borrowers default—as nearly 1.2 million direct loan borrowers did in 2016[1]—the consequences are particularly severe because of collection costs, credit reporting, tax refund offsets, wage garnishment, and ineligibility for future aid. While recent cohorts of borrowers are defaulting at lower rates than at the peak of the recession, repayment rates remain low and the overall delinquency rate on student loans remains high (Looney and Yannelis 2015; Federal Reserve Bank of New York, 2018). Many of these loans will never be repaid, leading the federal government and ordinary taxpayers to bear the burden of these costs.

Beyond salient student loan defaults, the more significant economic problem is that too many students leave gainful employment programs without having improved their earnings and employment prospects. For instance, according to Cellini and Turner (2018) at many GE programs students left school with *worse* job prospects—lower earnings and employment rates—than they faced prior to school entry, despite having incurred considerable costs and loan burdens. The authors also show that, on average, the lifetime earnings gains from attendance are not enough to outweigh the debt incurred by students in for-profit GE certificate programs. In short, the average student's investment in a for-profit GE program does not pay off. A burgeoning literature on the employment and earnings outcomes of for-profit students supports this finding. Cellini and Koedel (2017) synthesize this body of literature and find a consistent pattern among the studies that can adequately control for differences in student demographics and background characteristics: post-college earnings of for-profit college students are typically lower than—and, at best, equal to—the earnings of similar students in public institutions, despite the fact that for-profit students pay more and accumulate more debt. In other words, the economic benefit or return that students earn on their educational investments varies widely, with some students—particularly those attending programs subject to the 2014 GE rule—experiencing poor outcomes.

Researchers are also working to understand the broader implications of student borrowers leaving school with high debts and weak earnings, with some work raising concerns about the implications for home ownership (e.g., Chakrabarti et al. 2017b), occupational choice (e.g., Field 2009), or family formation (e.g., Boizick and Estacion 2014).

Today's student loan crisis mirrors an earlier crisis that occurred in the late 1980s, after eligibility for federal student loans was extended to a broader array of students and institutions with little oversight or accountability. These changes led to a large influx of institutions participating in the federal loan program in the early 1980s, many of which were for-profit institutions and other institutions with high default rates (Gladieux 1995). For instance, after the

[1] See U.S. Department of Education (n.d.).

creation of the Supplemental Loans to Students (SLS) program in 1986—a program that expanded loan eligibility to older, non-traditional borrowers—the share of SLS borrowers at for-profit schools increased from 8 percent in 1986, to 50 percent in 1987, and to more than 61 percent in 1988. (US Senate 1991.) The associated increase in the volume of the loan program, a dramatic increase in loan defaults, and reports of waste, fraud and abuse within the system prompted investigations from the Senate Committee on Governmental Affairs and ED's inspector general. By 1990, default rates on student loans exceeded 30 percent (Looney and Yannelis 2015). Investigations initiated by Secretary of Education William J. Bennett revealed a pattern of "exploitative and deceitful practices" by for-profit career programs, which Bennett summarized as "an outrage perpetrated not only on the American taxpayer, but, most tragically, upon some of the most disadvantaged, and most vulnerable members of society." The response of policymakers was swift and decisive, including legislation of substantial new accountability measures on institutions, limitations on the amounts of revenues for-profit institutions were able to derive from federal Title IV sources, and limits on other abusive practices. And those accountability systems were effective, driving down default rates into the single digits (Looney and Yannelis, forthcoming). The 2014 GE regulation addressed a very similar problem with an appropriate and commensurate accountability system.

2) The 2014 GE rule successfully targets occupational programs with poor outcomes.

Some postsecondary education programs leave their students with high levels of debt and few skills to increase their earnings capacity enough to justify the program's cost. Regulations that limit federal aid to such programs are an appropriate policy response to reduce the costs of student loans to taxpayers, increase the return on human capital investments, and to protect students from economic harm.

The 2014 GE rule applies to gainful employment certificate programs at public, private non-profit, and for-profit institutions alike, and degree programs at for-profit institutions. The focus on for-profit institutions is not the result of the regulation per-se, but reflects Congress's intent in legislation to subject for-profit institutions to greater supervision, and the fact that students at for-profit institutions represent a disproportionate share of students experiencing poor outcomes. Indeed, attending a four-year private for-profit college is the strongest predictor of default (more predictive than dropping out) according to researchers at the Federal Reserve Bank of New York (Chakrabarti et al., 2017a). The 2014 GE approach is justified by the fact that poor labor market and loan outcomes for students were highly concentrated among for-profit programs—suggesting that the benefits of redirecting students to higher performing programs relative to any reporting burdens imposed on institutions is likely to be highest in that sector.

The recent increase in default rates and other poor student outcomes was associated with a dramatic rise in student enrollment in the for-profit higher education sector. Between 2000 and 2010, fall enrollments at for-profit institutions more than tripled compared to growth of about 28 percent among all institutions (U.S. Department of Education 2016). This rise in enrollments was associated with reports of abuse of federal student aid in the sector[2] and considerable

[2] For example, see GAO (2010) and GAO (2011).

evidence that many programs were not preparing students for success in the labor market. Early studies showed that while students from for-profit colleges accumulate higher levels of debt due to higher tuition prices, their labor market earnings after enrollment were low and the rates of default on their loans were demonstrably higher (Deming et al. 2012, Lang and Weinstein 2013). In 2009, for-profit institutions accounted for about 11 percent of all postsecondary enrollments but about 50 percent of all student loan defaults (Deming et al 2012). In their analysis of why default rates increased between 2000 and 2011, Looney and Yannelis (2015) trace much of the recent surge in student loan defaults and other negative student outcomes to the increase in enrollment at for-profit institutions. Looney and Yannelis (2015) showed that approximately half of the increase in student loan defaults between 2000 and 2010 was driven by increased student enrollment in for-profit institutions.

Based on data on student earnings and debt outcomes released by the Department of Education in 2017, among certificate programs where all programs are subject to the rule regardless of institutional control, 779 of the 869 programs that did not pass the debt-to-earnings standard (i.e., failed or were "in the zone") were operated by for-profit colleges. Overall, 98 percent of the students enrolled in programs that did not meet this standard were in for-profit programs. Similarly, the Regulatory Impact Assessment for the 2014 GE Rule noted "low earnings and high rates of student loan default are common in many GE programs. For example, 27 percent of the 5,539 GE programs that the Department estimates would be assessed under the accountability metrics of the final regulations produced graduates with mean and median annual earnings below those of a full-time worker earning no more than the Federal minimum wage ($15,080). Approximately 22 percent of borrowers who attended programs that the Department estimates would be assessed under the accountability metrics of the final regulations defaulted on their Federal student loans within the first three years of entering repayment." As we describe further in the next sections, these patterns are not driven solely by student demographics or socioeconomic status: these patterns hold across a wide number of economics studies that control for these factors.

A large body of research studies documents the loan and labor market outcomes of students in GE programs and across higher education sectors. This evidence strengthens the justification for the 2014 GE rule's disproportionate effect on for-profit degree programs by illustrating that students that attend for-profit institutions have outcomes that are substantially worse than initially understood, both in terms of student loans and labor market outcomes. Importantly, as this summary of the literature shows, this evidence has only gotten clearer since the 2014 GE rule was passed. As one analysis concludes, "Students who attend for-profit institutions take on more educational debt, have worse labor market outcomes, and are more likely to default than students attending similarly selective public schools (Armona et al., 2018)." Combined with the results of other new research studies (discussed in the following section) suggesting that students who attend programs closed by accountability provisions are likely to re-enroll in nearby non-profit or public institutions this suggest the net benefits of the rule are also likely higher than initially anticipated. Finally, new research using detailed administrative data illustrates that the D/E metric used in the regulation is a strong predictor not only of borrower outcomes, but also other important student outcomes.

Evidence on Loan Outcomes

Recent research on student loans documents the disproportionate borrowing and high default rates among for-profit college students. Looney and Yannelis (2015) document higher rates of default in the for-profit sector, and suggest that the relative growth in the number of borrowers in that sector can explain (in an accounting sense) between one fourth and one half of the increase—a near doubling—in the cohort default rate between 2000 and 2011. Beyond the official two-year cohort default rates on student loans, Looney and Yannelis (2015) illustrate a broader pattern of loan delinquency among for-profit borrowers. Two years after leaving school and entering repayment on their loans, almost three quarters of for-profit borrowers owed more, because of accumulating interest and fees, than they did when repayment began. Five years after entering repayment, almost half (47 percent) of the 2009 cohort of for-profit borrowers had defaulted on a federal student loan. For-profit students were more likely to borrow and borrowed more each year of enrollment than other students, and across a wide variety of loan outcome measures, those borrowers faced worse outcomes than borrowers from other types of institutions. A recent study by Scott-Clayton (2018b) shows the relatively poor outcomes of students at for-profit colleges is remains even after controlling for differences in family income, age, race, academic preparation, and a host of other factors, echoing a similar finding by Looney and Yannelis (2015). She finds in particular that even among students similar in these dimensions, students that attend for-profit institutions are roughly 50 percent more likely to default on a student loan than students who attend public community colleges.

Cellini and Darolia (2016) show that high tuition drives the disproportionate student borrowing in the for-profit sector while student background characteristics can explain only a small portion of the difference between sectors. Armona et al. (2018) further find that increases in local enrollment in for-profit colleges lead to increases in student borrowing and a higher likelihood of default.

Evidence on Labor Market Outcomes

Earnings gains from college attendance are among the most important potential benefits of postsecondary education-especially for programs intended to prepare students for gainful employment in a recognized profession—and are also critical for assessing students' ability to repay loans. The most comprehensive study of labor market outcomes for students in GE programs is Cellini and Turner (2018) who use administrative data from the Department of Education linked to earnings information from the Internal Revenue Service to estimate earnings gains for over 1.4 million students attending GE programs between 2006 and 2008. The average change in earnings measured 5 to 6 years post-attendance relative to students' own prior earnings were found to be *negative* for students in for-profit certificate, associate's and bachelor's degree programs. For certificate programs, where GE data cover both for-profit and non-profit sectors, earnings gains for students in for-profit institutions were found to be much lower than those for students in public institutions, even after accounting for differences in student characteristics. For-profit students also incurred larger debt burdens than the students in comparable programs at public institutions and these results held across most of the major fields of study. Comparing for-profit GE certificate students to a demographically-similar group of high school students who never attended college, Cellini and Turner (2018) find little to no earnings gain from attending. This bears emphasis: in contrast to most other forms of higher education, their evidence implies that, on average, students' investments in for-profit GE certificate programs are unlikely to generate net benefits over their lifetime, suggesting students would be better off not going to college at all in comparison.

Recent research results show the poor labor market outcomes of many for-profit institutions reflect the poor quality of education in the sector rather than other factors, like the relative disadvantage of its students. Cellini and Koedel (2017) review the recent literature on the earnings gains to for-profit college attendance. The 9 studies they review comparing for-profit students to students in the public sector (published or publicly-available working papers since 2010) draw on various methodologies to disentangle the influence of for-profit college attendance from other factors associated with the nonrandom selection of students into these institutions. A consistent pattern emerges from these studies: the post-college earnings of for-profit college students are typically lower than—and, at best, equal to—the earnings of similar students in public institutions, despite the fact that students pay more and accumulate more debt to attend. This pattern of negative to null relative earnings differentials is consistent across all degree types and credentials (4-year, 2-year, and certificate programs) as well as for samples of first-time college students, young workers, and federal aid recipients, among others in the literature.

A few studies also compare labor market outcomes of for-profit college students with similar individuals who do not attend college to assess whether for-profit attendance generates gains over non-attendance. Like Cellini and Turner (2018), noted above, these studies of the absolute return to attendance find null or small positive effects of for-profit college-going that are unlikely to be large enough to offset the private cost of attendance even when the alternative is to forgo college altogether (Cellini and Koedel 2017). Adding in taxpayer costs of for-profit education (i.e., Cellini 2012) makes it even less likely that the small positive earnings gains found in some studies would outweigh the social cost of a for-profit education.

Two recent experimental resume audit studies explore employer perceptions of the quality of workers who train at for-profit versus not-for-profit institutions (Deming et al. 2016 and Darolia et al. 2014). Deming et al. (2016) find that resumes with bachelor's degrees from large for-profit chain institutions are 22 percent (2 percentage points) less likely to receive a callback than otherwise identical resumes listing degrees from nonselective public schools when sent to job postings that require a bachelor's degree. Both studies find similar callback rates for applicants with for-profit vs. public sub-baccalaureate credentials. Yet this similarity in callback rates by sector should be compared to the cost of attendance, which is much higher for for-profit certificates. Thus both of these studies suggest that for-profits are a worse deal for students than their public sector competitors.

Recent evidence also shows that the specific accountability metric used in the GE rule—the D/E ratio—is a useful indicator of the likelihood that borrowers will experience high default rates, otherwise struggle to repay their loans, or suffer poor labor market outcomes, particularly within the for-profit and 2-year college sectors. Chou et al. (2017), using administrative data produced by Federal Student Aid, show that the D/E ratio, particularly among non-selective institutions, is an important predictor of loan repayment, economic opportunity (or the lack thereof), and of other poor loan and labor market outcomes. At institutions with high D/E ratios, students from both high- and low-income backgrounds experienced poor outcomes, suggesting that the characteristics of the institution—rather than the background of the students—are a key driver of adverse student outcomes. Their analysis also showed that students at for-profit programs experience especially poor outcomes compared to undergraduates at public and private non-profit schools on outcomes like economic opportunity, loan repayment, and default. For instance, among the 10 percent of institutions with the lowest five-year repayment rate (measuring the fraction of loans repaid by the 2009 cohort of borrowers by 2014), 70 percent were for-profit institutions. (Only 1 percent of schools in the top 10 percent were for-profit institutions).

3) The 2014 GE regulations are based on appropriate and robust measures of student outcomes (debt and earnings) that are aligned with the problem addressed by the rule. ED's critiques of the debt-to-earnings measure are not supported by theory or evidence.

The intent of the 2014 regulation is to encourage aid-receiving institutions to improve or close poor performing programs, and encourage students to use federal aid to enroll in programs with better outcomes. It pursues this goal through two approaches. First, the regulations create consequential accountability by defining which programs at private for-profit, private non-profit, and public institutions lead to "gainful employment," and thus are eligible to receive federal student aid under the Higher Education Act, based on a measure of the debt-burden of recent graduates—the debt-to-earnings (D/E) ratio. More specifically, programs are defined as leading to gainful employment if the average annual loan payments of program graduates about 3 years after graduating do not exceed more than 20 percent of the average discretionary income (i.e., earnings above a poverty threshold), or 8 percent of total earnings. Programs whose graduates experience systematically high D/E ratios over multiple graduating classes are prohibited from participating in federal aid programs.

Second the regulations created transparency requirements, aimed at ensuring that students receive information on program quality and costs prior to enrolling—especially for low-performing programs. All GE programs have to provide a "disclosure template" with information about program costs and other information including student outcomes to prospective and enrolled students, link to it on all program and financial aid pages of their websites, and must include the link to the template in promotional and advertising materials. Schools that fail the D/E rate (or are otherwise potentially one year away from losing Title IV eligibility) are required to provide a warning through this template, and document that enrolled and prospective students receive the warning.

These two approaches are complementary. The transparency requirements are designed to work immediately, and steer students to higher quality programs and give institutions an incentive to improve to maintain enrollments. Recognizing that information alone is often insufficient protection, especially for lower-income students, the accountability provisions ensure that federal dollars do not continue to support enrollment in programs that persistently graduate students with low earnings and high levels of debt.

The accountability system in the 2014 GE regulations is based on a simple debt-to-earnings (D/E) standard for programs to be eligible to distribute Title IV financial aid, which directly targets the costs of poor student outcomes. The D/E standard is a metric of ability-to-repay that is ubiquitous in the world of credit and is rooted in academic research and industry practice. An attractive feature of the D/E metric is that it can be interpreted as a proxy for the economic return to the government's investment in borrowers' education because it relates the financial cost of the investment (debt) to the rewards to that investment (earnings). This investment-reward framework is particularly valuable when assessing programs whose purpose is to lead to students' gainful employment. Intuitively, the rule asks whether post-graduation earnings are sufficient to cover the cost of the investment and ensure an appropriate reward.

Viewed this way, the NPRM's criticism of the D/E measure is misguided and illogical. For instance, the NPRM argues that the D/E measure is unreasonable because, for instance, some programs cost more, post-program earnings varies significantly from one occupation to the next, or because interest rates on loans may rise, leading some programs to be more likely to fail the rule. That is exactly the point. Much like when high mortgage rates limit the amount home buyers can prudently buy, high loan costs (or low earnings) reduce the amounts students should prudently borrow—and the amount the federal government should prudently lend.

The NPRM further makes several claims about the debt-to-earnings measure proposed in the 2014 GE rule, including that it would show similar evidence of low-performance in the (uncovered) non-proprietary degree programs, is influenced by student demographics and also by local economic conditions, and suggests the measure is therefore ill-suited for rationing program eligibility for federal student aid. In most cases, ED possesses data necessary to illustrate these claims and could provide the public with supporting evidence. But it has not provided even the simplest analyses based on its own readily available data to support these claims. Below is a partial list of unsupported claims or analyses that ED could provide to assist the public in evaluating their veracity.

1) The for-profit sector is unfairly targeted. ED could calculate D/E ratios in a consistent fashion for all programs in both proprietary and non-proprietary institutions using existing data from the National Student Loan Data System (NSLDS) and earnings data from the Social Security Administration (SSA) to illustrate whether the problems targeted by the rule are in fact as prevalent in the non-proprietary sector. This would be valuable information that might spur Congress to act to protect students in all sectors. In the absence of such evidence or the statutory authority to apply the GE rule to degree-granting programs at public and private nonprofit institutions, we believe that ED should protect students where it has statutory authority to do so. Based on the best evidence available we believe the rule is appropriately targeted on programs where student problems with low earnings and high debt are most concentrated.
2) Many programs with non-passing D/E ratios would have passing performance if their students weren't disproportionately low-income, or independent students. First, considerable

evidence suggests the high debts and low earnings outcomes are not merely the result of differences in economic disadvantage. Second, ED could use simple regression tools to present "regression-adjusted" D/E ratios for each program, adjusting ratios to reflect what each program's performance would be if it had "average" student characteristics. It is very unlikely that student characteristics in the GE sector differ enough across programs that a large number of programs would have passing rates after adjusting for student demographics. Indeed, these were the findings of analyses supporting the 2014 GE rule (79 FR 65045) and there is little reason to believe this has changed. Finally, risk-adjustment—in practice, excusing programs whose students have high debts and low earnings because their students are poor—may be undesirable because it may have the perverse effect of allowing more disadvantaged students to take on greater debt-burdens or enroll in programs with worse labor market outcomes.

3) D/E ratios are overly sensitive to the business cycle. ED could use multiple cohorts of D/E rates across institutions, and show how changes in local (e.g., county or state) unemployment rates affect program D/E rates, and simulate the number of failing programs that might be affected by a typical recession. It is very unlikely that a recession would cause a large increase in the number of failing programs. Even large recessions result in small proportional declines in the fraction of workers *employed*, and wages rarely fall during recessions. It is therefore unlikely that the average earnings of a cohort is particularly sensitive to the business cycle. At most, it is likely that a small number of programs with D/E ratios already very close to failing might be affected.
4) D/E ratios are sensitive to the costs of tuition or to interest rates on student loans. From a financial perspective, other things equal, when tuition costs or interest rates increase, the financial cost of education rises relative to borrowers earnings, reducing the return on investment or and the ability of borrowers to repay their loans. Hence, the sensitivity of the D/E ratio to costs and interest rates is desirable.

4) The existing GE regulations will improve economic outcomes of students by limiting access to low-quality, low-performing institutions, and redirecting students to better-performing institutions.

Federal oversight and accountability systems, like the 2014 GE rule, the cohort default rate rules, and other oversight applied to ensure program integrity and reduce waste, fraud, and abuse have a successful track record of improving student outcomes and reducing waste in federal aid programs. (Cellini, Darolia, and Turner 2016, Whitman 2017a,b; Looney and Yannelis, forthcoming). For instance, as Looney and Yannelis (forthcoming) document, the implementation of accountability measures in the early 1990s limited federal aid to high default rate institutions, leading hundreds of low-quality, federal aid dependent institutions to close their doors, and sending the two-year student loan default rate from more than 30 percent in 1990 to less than 10 percent by the late 1990s. Beyond the dramatic decline in the default rate, more qualitative anecdotes suggests the improvements in accountability reduced the prevalence of abusive recruiting practices and led many institutions to close low performing programs.

Looney and Yannelis (forthcoming) examine the history of the student loan default rate from 1970 through 2014 and document that the majority of the time series variation in student loan default is driven by federal policies varying access to credit. Expansions of credit—increases in loan limits or eligibility for new groups of students or institutions—led to rapid entry and expansion of new institutions (mostly for-profit institutions). And contractions in credit, from the introduction of accountability systems, lead to the exit or contraction of high-risk institutions. Expanding and contracting student loan eligibility to high-risk institutions explains almost all of the variation in student loan default rates over time. For instance, over the period from 1980 to 2011, 91 percent of the overall variation in aggregate 2-year federal student loan default rates is explained by the two-year lagged share of borrowers enrolled at for-profit schools (plus a time trend). Other time varying factors, like economic conditions, student characteristics, the cost of tuition and fees, typical student debt burdens, or repayment plan availability are uncorrelated with aggregate changes in the default rate.

One reason for the increase in default rates over the past decade is that accountability rules were watered down after the default rate fell in the 1990s—a pattern that has repeated several times over the past century. Prior to the Cohort Default Rate regulations of the 1990s, for-profit colleges had been the targets of at least two additional rounds of scandal and subsequent regulatory pressure. In the early 1950s the Truman Administration responded to abuses by for-profit college following the introduction of the GI Bill (Whitman 2017a). The Ford Administration put further restrictions in place after enrollment (and scandals) in for-profit colleges increased in the 1970s, as correspondence courses grew in popularity and federal aid was expanded (Whitman 2017b). A lesson from past experience is that accountability rules need to be permanent so that students and taxpayers don't continue to experience the cycles of default.

While no programs have yet been sanctioned under the rule, early anecdotes indicate that some institutions are already closing poorly performing programs or changing academic guidelines. Of 767 failed programs, 500 (65 percent) are now closed. About half of those are because the institution itself closed, but more than 200 were selectively closed/changed by their institutions. These changes are evidence of the rule's positive impact in altering the postsecondary landscape to remove low-value programs.

Improving or closing poor-quality programs and shifting enrollment from low-quality to high-quality institutions has substantial benefits for students, the economy, and federal coffers. For instance, research examining the universe of gainful employment certificate programs shows that the average student who had enrolled at a for-profit GE program were 1.5 percentage points less likely to be employed and earned 11 percent less ($2,100 per year) than students enrolled at comparable gainful employment programs at public institutions, but had $5,000 more in student loan debt (Cellini and Turner 2018). Hence, shifting aid eligibility away from the worst-performing gainful employment programs to better ones will increase the average earnings and employment, and reduce the debt burden of students. Indeed, in the NPRM to its 2014 rulemaking, the Department estimated that the gainful employment rule would lead to lifetime earnings gains between $11-36 billion, as programs improve quality and students transfer to better performing programs (79 FR 16632).

As programs close or admissions criteria change, an important concern is that some students could lose access to certain programs as a result of a rule. Fortunately, the evidence summarized below suggests that students in sanctioned schools do not lose access to college. Rather, students respond to sanctions by moving on and attending other, better institutions. In other words, the evidence suggests we need not force students to choose between going to college and taking out a loan that they would be unable to repay.

At the outset it is important to stress that college-going per se may not be socially desirable if, for example, a student's earnings and other aspects of her life are left unchanged or worsened at her and taxpayers' expense. Cellini and Turner's (2018) finding of negative earnings gains suggest that for many for-profit programs, deterring enrollment by closing the program would benefit society. More generally, however, we might worry that closing programs would decrease college going overall.

New research from Cellini, Darolia, and Turner (2016) allays this concern. When for-profit colleges lost access to federal student aid due to cohort default rate (CDR) regulations in the 1990s, enrollment losses in sanctioned for-profit institutions were entirely offset by enrollment gains in local public institutions. Their results show that loss of federal aid eligibility shifts students across sectors and suggests that community colleges are accessible substitutes for students who enroll in for-profit colleges. Cellini (2010) provides further evidence of this substitutability by showing that enrollment in California community colleges increased shortly after capacity increases due to the passage of a local bond measure, while the number of nearby for-profit colleges declined. In other words, the research evidence shows that the GE rule is unlikely to impose unintended costs by deterring students from attending college at all (though recall evidence presented above that suggests students may be better off even in this event). Rather, this evidence suggests instead that closing low-performing programs will lead students to attend a cheaper college leading to higher earnings.

Other accountability systems available under the Higher Education Act would not have the same benefits. The evidence suggests that disclosure-only systems are necessary but not sufficient on their own to improve the outcomes of low-performing institutions or to help students and taxpayers avoid the problems of unsustainable debts (we describe this literature in the next section). Moreover, the historical experience with institutional accountability measures suggests that sanctions result in swift and beneficial improvements in outcomes. For instance, the institutional accountability measures legislated in the past proved to be very effective in reducing poor student loan outcomes. After the imposition of the Cohort Default Rate regulations in the early 1990s under the Bush administration, more than 1,200 for-profit institutions faced sanctions and the official cohort default rate plunged from 21.4 percent in 1989 to 10.4 percent in 1995 and 5.6 percent in 1999.[3] Examining the same sanctions, Cellini, Darolia, and Turner (2016) find evidence of reduced borrowing and student loan defaults in markets with sanctioned institutions.

5) Information disclosures, while important, are insufficient to address the problems motivating the 2014 GE rule. Moreover, the NPRM eliminates requirements on institutions

[3] https://www2.ed.gov/offices/OSFAP/defaultmanagement/defaultrates.html.

to ensure students receive disclosures, undermining the effectiveness of any disclosure provisions.

In addition to the accountability provisions described above, the 2014 GE regulations also require institutions to disclose information about the price of the program, the occupations it prepares students for, typical loan and completion outcomes, etc. Importantly, the rule requires not only that information be posted to program related websites hosted by institutions, but also that institutions at risk of being sanctioned with loss of aid eligibility issue warnings to students and document confirmation that these warnings are received. In its NPRM, ED proposes abandon the accountability provisions of the 2014 GE rule, and "broadening" information disclosure by posting information about programs at all institutions participating in federal aid programs to the College Scorecard—a consumer-focused information website launched in 2015 to promote "market-based accountability." At the same time, the NPRM eliminates requirements for institutions to ensure that students receive disclosures.

Information disclosures are important as they arm institutional leaders, sophisticated students, and other stakeholders (state, local, federal authorities) with information to monitor and guide improvement of student outcomes. ED notes that adding program information to the College Scorecard is beyond the scope of the current NPRM. Indeed, the addition of such information to the Scorecard was planned since 2015 and delayed only due to data availability.[4] But recent research evidence suggests that information and market forces alone are not likely to be sufficient to pressure the worst performing institutions to improve, or to help consumers who are inattentive or have less-support from making ill-advised choices with federal dollars.

Several recent studies of initiatives similar to ED's proposal illustrate the limited effects of information alone on students' college choices. A study by Hurwitz and Smith (2018) asks whether the release of the College Scorecard impacted college application behavior. While they find that the Scorecard led well-resourced students to apply to colleges with higher median earnings, they found very small impacts overall, and no impact of the College Scorecard on the college applications of students in less-affluent high schools, those with lower levels of parental education, and underserved minority groups. Similarly, a study by Blagg et al. (2017) found that students in schools randomly assigned to receive access to program level outcome information did not make greater use of information relative to students in schools that did not have such access. Unsurprisingly, then, providing information did not alter the programs students chose to enroll in. Finally, Bettinger et al. (2012) randomly assigned low-income families to receive accurate and easily digestible information about college costs net of financial aid. They found no impacts on college going or institutional choice from only providing families with such information.

These studies all suggest that information provision alone is not enough to alter the enrollment choices of less-resourced students and incentivize higher performance among institutions.

[4] For example, see announcements here: https://obamawhitehouse.archives.gov/the-press-office/2015/09/12/fact-sheet-empowering-students-choose-college-right-them, and here: https://www.ed.gov/news/press-releases/fact-sheet-obama-administration-announces-release-new-scorecard-data.

Absent market pressure from students using information to choose higher-quality programs, institutions have the perverse incentive to maximize enrollment driven revenue without regard for educational quality or cost. The accountability provisions in the GE regulation rightly target this problem by creating financial incentives for institutions to improve student outcomes.

While improving information disclosures will not compensate for rescinding the accountability provisions of the 2014 GE rule, ED should adopt low-cost common-sense provisions in its final rule to increase their effectiveness. In their review of the research literature on the impacts of laws requiring public disclosure of consumer information, Lowenstein et al. (2014) conclude that disclosures are most likely to be effective, *inter alia*, when they are simple, provide standardized and comparative information, and “vivid” (presented in a way sure to receive attention from target consumers). Based on these research findings, ED’s proposal to eliminate requirements for low-performing institutions to ensure that students receive disclosures prior to enrollment or entering financial aid commitments is a clear backwards step. Further, ED could do more to ensure disclosures reach its intended audience by utilizing FAFSA related tools (e.g., the FAFSA on the Web and related smart-phone application) to ensure students see important information on the programs they are considering submitting their financial information to.

6) ED has not presented rigorous analysis and evidence to support its claims and its rationale for its proposal to rescind the 2014 GE rule, in many cases despite having access to the data to do so.

In its analysis in the NPRM, ED ignores the benefits to students, the economy, and federal taxpayers of students earning higher wages and reaping a higher economic return on their educational investments. Instead, ED’s analysis focuses on unsubstantiated claims of higher than expected administrative burdens despite using the same estimates of burden reported in the 2014 GE rule. Based on the analyses presented in the initial 2014 GE rule, and the evidence cited above, the administrative burden costs to institutions are small relative to the benefits to students and taxpayers described above. ED should provide evidence to documents its claims of administrative burden, and a comprehensive analysis of these costs relative to the benefits to students described above to support its rationale to regulate.

As noted above, the NPRM makes several claims about the D/E metric and other aspects of the rule, but offers little evidence to substantiate them. As alluded to above, in many of the most important cases this is clearly a choice: ED has readily available data it could use to provide evidence that supports or refutes its claims. For example, it could support its key claim that the 2014 rule unfairly targets proprietary programs by using its NSLDS data to compute consistently measured D/E ratios across all programs. Instead, it has relied on institution level data from the College Scorecard which commenters at the negotiated rulemaking sessions have shown use different definitions and are an unreliable guide to cross-sector comparison of programs. Similarly, this data could be used to substantiate ED’s claim that whether programs pass or fail the D/E metric is unduly affected by the extent to which programs enroll disadvantaged students. Indeed, such analyses were presented in support of the 2014 GE rule, and showed such concerns were unfounded. Other examples include claims over whether failing programs are concentrated in “education deserts,” or whether D/E rates are overly influenced by the business cycle.

Furthermore, ED provides no analysis or discussion of alternative regulatory approaches. As noted above, all the criticisms of the disclosure regime in GE can readily be addressed using discretion granted to the Secretary under the existing regulatory structure. Indeed, program level information has been a planned addition to the College Scorecard since its release in 2015.[5] Finally, while we do not advocate such a change, ED could eliminate (or reduce) administrative burden on institutions with very slight modifications to the construction of the D/E metric. For example, by excluding institutional and private debt and removing the cap on overall debt to the cost of tuition and fees, ED could construct D/E rates based on its own administrative data without creating reporting burden for institutions. We do not support such a change because of the potential unintended consequence of encouraging institutions to recruit students to incur private loans—one of the practices the 2014 rule was intended to discourage. However, if ED has evidence that administrative burdens are large enough to warrant action, there are likely ways to reduce these burdens without eliminating the accountability regime. These alternatives should be explored.

7) Conclusion: We recommend that the Department leave the rule in place as currently written. GE accountability provisions are likely to be superior to alternate regimes under consideration. At a minimum, any changes to the rule that seek to reduce administrative burden should retain sanctions that include loss of Title IV aid-eligibility or similarly severe sanctions for poor-performing programs.

A large and growing literature in economics confirms that students in programs affected by the GE rules experience negligible increases in earnings after attending. Studies controlling for student demographics and background characteristics routinely find that students in for-profit and GE programs have lower employment and earnings gains than students in similar programs other sectors. Coupled with the very high tuition of many for-profit programs, students in GE programs are often saddled with high debt burdens that they cannot be reasonably expected to repay. Not surprisingly, these students are at the greatest risk of defaulting on student loans. These students—who are disproportionately lower-income, women, minority, and single-parents—are those that the 2014 GE rules seek to protect.

The research also shows that information alone is not enough to change consumer behavior in this market. Without a mechanism that would influence students' enrollment choices, the market lacks the competitive pressure that is needed to incentivize performance among GE institutions. A related strand of literature suggests that previous rounds of sanctions aimed at poor-performing college programs generated positive changes—shifting students to better-performing colleges and lowering default rates. For all of these reasons, regulating in the name of consumer protection is well-justified.

[5] E.g., see https://www.ed.gov/news/press-releases/fact-sheet-obama-administration-announces-release-new-scorecard-data or https://obamawhitehouse.archives.gov/the-press-office/2015/09/12/fact-sheet-empowering-students-choose-college-right-them.

While not enough time has passed to gauge the full impact of the 2014 GE regulations, there are encouraging signs that it is working as intended and having beneficial effects. Some colleges have already announced intentions to close poor performing programs and to better match students to effective programs in their admissions system. The administration should take a closer look at the evidence surrounding GE programs before rescinding the 2014 GE rule.

The evidence supporting the justification and design of the 2014 GE rule has only grown stronger since its publication. We believe the existing rule should be sustained. At a minimum, any changes to the rule that seek to reduce administrative burden should retain effective sanctions for poor-performing programs.

We ask that all studies cited herein become part of the public record and considered part of these comments.

Sincerely,

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References:

Armona, Louis, Rajashri Chakrabarti, and Michael Lovenheim (2018). "How Does For-Profit College Attendance Affect Student Loans, Defaults, and Earnings?" *Federal Reserve Bank of New York*. https://www.newyorkfed.org/research/staff_reports/sr811.html.

Bettinger, Eric, Long, Bridget, Oreopoulos, Philip and Sanbonmatsu, Lisa, (2012). "The Role of Application Assistance and Information in College Decisions: Results from the H&R Block Fafsa Experiment." *The Quarterly Journal of Economics* 127(3): 1205-1242. https://EconPapers.repec.org/RePEc:oup:qjecon:v:127:y:2012:i:3:p:1205-1242.

Blagg, Kristin, Matthew M. Chingos, Claire Graves, Anna Nicotera, and Lauren Shaw (2017). "Rethinking Consumer Information in Higher Education." *Urban Institute: Washington, D.C.* http://www.urban.org/sites/default/files/publication/91666/rethinking_consumer_information_in_higher_education_2.pdf

Bozick, Robert, and Angela Estacion, (2014). "Do student loans delay marriage? Debt repayment and family formation in young adulthood." *Demographic Research.* Volume 30, Article 69, page 1965-1891.

Cellini, Stephanie Riegg (2010). "Financial Aid and For-Profit Colleges: Does Aid Encourage Entry?" *Journal of Policy Analysis and Management.* 29(3): 526-52.

Cellini, Stephanie Riegg (2012). "For-Profit Higher Education: An Assessment of Costs and Benefits," *National Tax Journal* 65(1): 153-180.

Cellini, Stephanie Riegg and Latika Chaudhary (2014). "The Labor Market Returns to a For-Profit College Education." *Economics of Education Review*. 43: 125-140.

Cellini, Stephanie Riegg and Rajeev Darolia (2016). "Different degrees of debt: Student borrowing in the for-profit, nonprofit, and public sectors." *Brown Center on Education Policy at Brookings.* https://www.brookings.edu/research/different-degrees-of-debt-student-borrowing-in-the-for-profit-nonprofit-and-public-sectors/.

Cellini, Stephanie Riegg, Rajeev Darolia, and Lesley Turner (2016). "Where do Students Go When For-Profit Colleges Lose Federal Aid?" *NBER Working Paper 22967*.

Cellini, Stephanie Riegg and Cory Koedel (2017), "The Case for Limiting Federal Student Aid to For-Profit Colleges," *Journal of Policy Analysis and Management: Point/Counterpoint*, 36(4): 934-942.

Cellini, Stephanie Riegg and Nicholas Turner (2016). "Gainfully Employed? Assessing the Employment and Earnings of For-Profit College Students Using Administrative Data." *NBER Working Paper 22287*.

Cellini, Stephanie Riegg and Nicholas Turner (2018). "Gainfully Employed? Assessing the Employment and Earnings of For-Profit College Students Using Administrative Data." *Journal*

of Human Resources.
http://jhr.uwpress.org/content/early/2018/01/31/jhr.54.2.1016.8302R1.abstract

Chakrabarti, Rajashri, Nicole Gorton, Michelle Jiang, and Wilbert van der Klaauw, (2017a). "Who Is More Likely to Default on Student Loans?" Federal Reserve Bank of New York Liberty Street Economics (blog), November 20, 2017, http://libertystreeteconomics.newyorkfed.org/2017/11/who-is-more-likely-to-default-on-student-loans.html.

Chakrabarti, Rajashri, Nicole Gorton, and Wilbert van der Klaauw, (2017b). "Diplomas to Doorsteps: Education, Student Debt, and Homeownership," Federal Reserve Bank of New York Liberty Street Economics (blog), April 3, 2017, http://libertystreeteconomics.newyorkfed.org/2017/04/diplomas-to-doorsteps-education-student-debt-and-homeownership.html.

Chetty, Raj, John Friedman, Emmanuel Saez, Nicholas Turner, and Danny Yagan (2017). "Mobility Report Cards: The Role of Colleges in Intergenerational Mobility." *The Equality of Opportunity Project.* http://inequality.stanford.edu/mobile/publications/media/details/mobility-report-cards-role-colleges-intergenerational-mobility.

Chou, Tiffany, Adam Looney, and Tara Watson (2017). "Measuring Loan Outcomes at Postsecondary Institutions: Cohort Repayment Rates as an Indicator of Student Success and Institutional Accountability." *NBER Working Paper 23118*.

Darolia, Rajeev, Cory Koedel, Paco Martorell, Katie Wilson, and Francisco Perez-Arce (2014). "Do Employers Prefer Workers Who Attend For-Profit Colleges? Evidence from a Field Experiment." *Rand Working Paper.*

Deming, David J., Claudia Goldin, and Lawrence F. Katz (2012). "The For-Profit Postsecondary School Sector: Nimble Critters or Agile Predators?" *Journal of Economic Perspectives.* 26(1):139-164.

Deming, David J., Noam Yuchtman, Amira Abulafi, Claudia Goldin, and Lawrence F. Katz (2016). "The Value of Postsecondary Credentials in the Labor Market: An Experimental Study." *American Economic Review*. 106(3): 778-806.

Dynarski, Susan (2016). "With Trump, Investors See Profits Again in For-Profit Colleges." *New York Times*. November 18. https://www.nytimes.com/2016/11/19/upshot/with-trump-investors-see-profits-again-in-for-profit-colleges.html.

Federal Reserve Bank of New York (2018). "Student Loan Data and Demographics." Consumer Credit Panel.
https://www.newyorkfed.org/medialibrary/interactives/householdcredit/data/xls/sl_update_2018.xlsx

Field, Erica (2009). "Educational Debt Burden and Career Choice: Evidence from a Financial Aid Experiment at NYU Law School." *American Economic Journal: Applied Economics* 2009, 1:1, 1–21http://www.aeaweb.org/articles.php?doi=10.1257/app.1.1.1.

Gladieux, L. E. (1995). "Financing Postsecondary Education: The Federal Role. Federal Student Aid Policy: A History and an Assessment." *U.S. Department of Education*. https://www2.ed.gov/offices/OPE/PPI/FinPostSecEd/gladieux.html

Hastings, Justine, Christopher A. Neilson, and Seth D. Zimmerman (2017). "The Effects of Earnings Disclosure on College Enrollment Decisions." *NBER Working Paper 21300.*

Hurwitz, Michael and Jonathan Smith (2018), "Student Responsiveness to Earnings Data in the College Scorecard." *Economic Inquiry, 56(2): 1220-1243.*

Lang, Kevin and Russell Weinstein (2013). "The Wage Effects of Not-for-Profit and For-Profit Certifications: Better Data, Somewhat Different Results." *Labour Economics*. 24: 230-243.

Libassi, CJ and Ben Miller (2017). "How Gainful Employment Reduces the Government's Loan Forgiveness Costs." *Center for American Progress.* https://www.americanprogress.org/issues/education/reports/2017/06/08/433531/gainful-employment-reduces-governments-loan-forgiveness-costs/.

Looney, Adam and Constantine Yannelis (2015). "A Crisis in Student Loans? How Changes in the Characteristics of Borrowers and in the Institutions They Attended Contributed to Rising Loan Defaults." *Brookings Papers on Economic Activity.* https://www.brookings.edu/bpea-articles/a-crisis-in-student-loans-how-changes-in-the-characteristics-of-borrowers-and-in-the-institutions-they-attended-contributed-to-rising-loan-defaults/.

Looney, Adam and Constantine Yannelis (forthcoming). "The Consequences of Student Loan Credit Expansions: Evidence from Three Decades of Default Cycles." https://www.dropbox.com/s/3b80t5b7v5bbdq7/Credit_Expansion.pdf?dl=0

Loewenstein, G., Sunstein, C. R., & Golman, R. (2014). "Disclosure: Psychology changes everything." *Annual Review of Economics*. 6: 391–419.

Scott-Clayton, Judith (2018a). "The looming student loan default crisis is worse than we thought." *Brookings Evidence Speaks Reports,* 2(34).

Scott-Clayton, Judith (2018b). "What accounts for gaps in student loan default, and what happens after." *Brookings Evidence Speaks Reports,* 2(57).

U.S. Department of Education, Federal Student Aid (n.d.). "Default Rates". https://studentaid.ed.gov/sa/about/data-center/student/default.

U.S. Department of Education, National Center for Education Statistics (2016). "Digest of Education Statistics 2015". *51st Edition, NCES 2016-014*. https://nces.ed.gov/pubs2016/2016014.pdf.

U.S. Government Accountability Office (2010)." Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices." *GAO-10-948T*. http://www.gao.gov/assets/130/125197.pdf.

U.S. Government Accountability Office (2011). "Experiences of Undercover Students Enrolled in Online Classes at Selected Colleges." *GAO-12-150*. http://www.gao.gov/assets/590/586456.pdf.

US Senate (1991) "Abuses in Federal Student Aid Programs" Permanent Subcommittee of Investigations, Committee on Governmental Affairs.

Whitman, David (2017a). "Truman, Eisenhower, and the First GI Bill Scandal." *The Century Foundation.* https://tcf.org/content/report/truman-eisenhower-first-gi-bill-scandal/.

Whitman, David (2017b). "Vietnam Vets and a New Student Loan Program Bring New College Scams." *The Century Foundation.* https://tcf.org/content/report/vietnam-vets-new-student-loan-program-bring-new-college-scams/.

New York State
Association for College
Admission Counseling
NYSACAC

Counselor Stories of NYS For-Profit Colleges' Predatory Practices

A.G., Admissions Staff at CUNY Hunter College

"I once worked at Berkeley College as a recruiter and was told to call students multiple times to the point of harassment to try and enroll them. In addition, I was told to try and convince students who were already enrolled at other colleges to join Berkeley even after the deposit was submitted. My personal commitment to students and doing the right thing is what led to my immediate exit of admissions in the for-profit industry. I promised myself to fight against any unethical behavior which is why I am sending this message."

TRIO Adviser in Central Harlem

A Mandl School of Allied Health representative preyed on one of our former students by assuring her that she would be able to start taking classes at Mandl without having completed her secondary education. The student, reasonably concerned, repeatedly asked the representative if they were certain she could enroll in Allied Health courses without having a high school diploma or its equivalent. She was ensured that it would be ok and proceeded to enroll in classes. A few days after the start of the semester the student found out via some school literature that she indeed needed to have completed her secondary education in order to take the courses she was enrolled in, when she consulted with another employee the information was confirmed. The student immediately dropped the courses but at that point it was "too late" to remove the charges from her account and she would be responsible for the cost of the courses despite being wrongfully enrolled by a Mandl employee. In order to pay for the courses she had pursued a loan which she currently is disputing with the Department of Education due to Mandl's deceiving practices.

S.A. Counselor at Public High School in East New York

A recruiter at Berkeley College was almost successful with recruiting a student that I worked with last year. The student met with the recruiter and revealed that she was unable to apply for federal aid. She was told that she would receive a scholarship to attend the school however she would have to commit to the school first and pay the $300 commitment fee. The recruiter repeatedly contacted the student and continued to pressure her for a decision. Public and private schools give students a package, which contains their tuition and scholarship grants in order for them to understand what they are going to receive before they make a decision to attend. Additionally, students have until May 1st to decide which college they would like to attend. My student was frantic and afraid causing unnecessary stress. Through discussion, I was able to steer her away from attending and potentially owing the school over $20,000 in the future.

D.L. Counselor at Community-based organization on Upper West Side

I am currently working with an adult who sought support from my community-based college access center because she was trying to transfer out of Berkeley College into CUNY and was experiencing significant challenges. We attempted to access her financial and academic records from the Berkeley website but the site was consistently unresponsive, and we tried multiple times over the course of two weeks. When we attempted to call someone from the financial aid office about her situation all of our calls were forwarded directly to voicemail and remain unreturned. At the time that this adult student was seeking to enroll in college she did not have access to a community-based organization who would be dedicated to helping her find a best-fit college for her. She thought that Berkeley was her only option.

MLF, High-School based College Counselor in East New York
Over the course of three years I saw Berkeley College increase their presence in the building by "volunteering" to help with FAFSA events, college fairs and offering "college classes" at the high school. The FASFA support was extremely troubling because the students were encouraged to put Berkeley on their FAFSA (even if they hadn't applied) essentially giving personal information to Berkeley, who would then use this information to contact and recruit the students.

During the fall of 2018 Berkeley aggressively recruited a student of mine. This student had an IEP designation and upon graduation would only be admissible to a 2-year college program. Due to our extensive counseling conversations, the student understood and was planning to complete a 2-to-4 year college transfer process at CUNY.

Berkeley misled my student by telling him they were a 4-year college and that he could be accepted and attend regardless of his diploma type. While Berkeley does have 4-year programs, it also has 2-year programs, which my student was likely to be placed into because of his academic scores. This offer of being accepted to a 4-year college enticed my student to visit the Brooklyn Berkeley campus with his mother; he recalled being treated really well, as if he was a guest at a fancy hotel. He was offered bottled water, and a gift of some sort while waiting to have a one-on-one meeting with a recruiter. Once he was in the office, the women informed my student that he couldn't proceed without the $50 application fee. His mother, only had $40 with her. The recruiter said that was ok, and that she would personally cover the other $10 (taking out a ten-dollar bill from her purse and adding it to his mother's). My student's mother is disabled and unable to work. Instead of offering my student a waiver; they coerced him into giving them $40! Upon, hearing this story and speaking with my student's mother about the misleading information they had received, the high cost of tuition compared to CUNY and Berkeley's low graduation rate the 3 of us decided he would no longer pursue Berkeley.

After many phone calls to have my student return to complete the rest of his application to Berkeley they discovered that his college counselor (me) had advised him to not attend there. This prompted Berkeley to seek me out, calling the guidance counselor and principal of the high school wanting to know why I was advising my students against Berkeley.

Good morning,

My name is Lisa Chandler. I am a 2013 graduate of DeVry College of New York, and a 2016 graduate of Keller Graduate School of Management. I am here today to share my story in support of DeVry.

In 2009, I began contemplating going to college. I already had, what I considered to be, a robust resume with experience working in Administration and Development with non-profit organizations. However, what I did not have was a degree of higher education.

I considered attending a local community college, but felt I might not fit in. I was older than most of the students and had not been in a classroom since I attended high school. I needed a school that offered evening classes with a career focused program to obtain skills that I could immediately apply to my current position and later to my future employment. I needed a "hands on" education.

I enrolled in the bachelor degree program to study Small Business Management & Entrepreneurship. During the last year of my undergrad I knew I wanted to stay in college and work on obtaining my Masters. I met with advisors, I sat in on a few of the Master's program classes, and I talked with the students to see if DeVry would continue to work for me. I graduated in October 2016 with an MBA in General Management and Public Administration.

I have seen some negative publicity about proprietary colleges, but I did my research. I talked it over with my family and friends and I pondered all the pros and cons. I chose to attend DeVry because what they offered worked best for me. The classes were accelerated, offered in the evening, and had professors who were actively engaged in careers that were related to the subject they were teaching.

I am now employed with a construction company that serves as a consultant to the Metropolitan Transportation Authority. I am an Analyst for the MTA Small Business Mentoring Program. and I ~~contribute~~ attribute much of my success ~~[illegible]~~ to what I learned @ Devry.

As you consider these proposed rules to regulate proprietary colleges in New York, I hope you will take my story into consideration. I had a very positive experience at DeVry and I feel that ALL schools should be required to provide the necessary information and data for students to make informed decisions about which college to attend.

Thank you!

ADRIANA DELGADO

April 4, 2019

Mr. Casey Adams
Director of City Legislative Affairs
New York City, Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

Re: Testimony on NYC DCA Proposed Rules Regarding Deceptive Trade Practices of For-Profit Educational Institutions

Dear Mr. Adams,

On behalf of the Berkeley College Alumni Association as the current President of the Alumni Board, I am submitting testimony in opposition to the "Deceptive Advertising by For-Profit Educational Institutions" Rules as proposed by the New York City Department of Consumer Affairs (DCA).

As a Berkeley College graduate, I am proud to serve as the President of the Alumni Association and have remained connected to the institution ever since I graduated in 2000. I know in my heart that Berkeley College is fully committed to its alumni and graduates, providing lifetime career assistance support and on-going alumni programming designed for life-long success.

Community Service is also a big focus of the Alumni Association. Giving back and service to others is something near and dear to my heart. I have served the past two years as the Alumni Community Service Liaison, encouraging alumni to participate in Community Service Week, part of the Berkeley Cares initiative at the College. Last year Berkeley College contributed 1,800 volunteer hours to community organizations across the New York City metro area and will be doing the same again this May.

Berkeley College prepared me in many ways for the career that I have today as a Visual Merchandising Senior Analyst at Verizon Wireless. The project presentations in my classes prepared me for my current role and helped me to become more comfortable with public speaking, which can be intimidating. Berkeley helped me overcome this as seen by the various leadership roles in which I serve today.

I credit a big part of my career success to my Berkeley College education and feel that the NYC DCA is unfairly attacking the proprietary sector degree granting institutions like Berkeley College and not crediting or acknowledging the many successes of the nearly 60,000 alumni Berkeley College continues to serve.

In conclusion, it would be much more productive if the NYC DCA got to know our college more and the great impact our graduates have on the City of New York and beyond.

Ms. Adriana Delgado
President, Berkeley College Alumni Association
Berkeley College Class of 2000

Testimony in Support of Proposed Rules to Address Deceptive Advertising by For-Profit Educational Institutions
Office of Assemblymember Harvey Epstein
Thursday, April 4th 2019

My name is Harvey Epstein and I am the Assemblymember representing New York's 74th Assembly District, which includes the neighborhoods of the Lower East Side, East Village, Stuyvesant Town/Peter Cooper Village, Murray Hill, Tudor City and the United Nations. Thank you for the opportunity to testify today.

I am here to support the Department's proposed rules on deceptive advertising by for-profit schools. Many, if not the majority, of these institutions, some of which are publicly traded companies, put their bottom line before the success of their students. These badly misaligned priorities create devastating outcomes for students, who leave school with mountains of debt and substandard employment opportunities.

The cost of attending one of these schools can be 2-4 times as expensive as attending a community or four-year public college. It may be easier to get into a for-profit, but not all potential employers recognize or accept their degrees or certification and the level of debt students carry when leaving is often much greater at a for-profit college than either a public or private not-for-profit institution.

According to the United States Department of Education's College Scorecard, Berkeley College, which was investigated undercover for two years and recently charged with deceptive and predatory recruiting practices, in addition to other violations, has an average annual cost of $27,533, a graduation rate of 29%, and a salary after attending of $40,800. In comparison, the public CUNY Kingsborough Community College, while more selective, has an average annual cost of $6,989, a similar graduation rate, and a salary after attending of $35,400. Another public school, CUNY's Baruch College, a 4-year institution like Berkeley, has an average annual cost of $7,193, a graduation rate of 68%, and a salary after attending of $57,200.

Beyond the obvious disparity in average annual cost, there is also a significant disparity in financial aid and debt. At Berkeley College, 70% of students receive federal loans, and have a typical total debt after graduation of $29,165. At Kingsborough, on the other hand, only 6% of students receive federal loans and most graduate with around $6,000 of total debt. Baruch has 12% of students receiving federal loans, and typically $10,724 of debt after graduation but with greater job opportunities, the debt is more manageable.

Worse than the bad return on investment these institutions provide is their targeting of vulnerable prospective students with deceptive and misleading recruitment practices. A number of educational and research organizations regularly conduct studies of post-secondary schools and their student characteristics. They have found that students at for-profit schools are disproportionately older and female, either Hispanic or African American, and many are single parents who have either not completed high school or are struggling to change careers while working full-time. Because these students often have not been in an educational setting for a while and most likely must work to support themselves and their families, they are also less likely to be able to complete their program of studies. They are then still burdened with the loans and grants that they initially took on when starting their program and even if they graduate, they earn less money than if they attended a public college.

According to the New York City Department of Consumer Affairs' legal complaint against Berkeley College, Berkeley was sadly typical of the exploitative and predatory tactics engaged in by for-profit colleges. The suit states that Berkeley would blatantly lie to prospective students about the mechanics and benefits of financial aid. In one case, a student was told by a recruiter that a Berkeley scholarship would cover almost all of her tuition. In fact, the college had deceived her into signing federal student loan paperwork, and she had thus unwittingly borrowed $13,197 in federal loans for a single year of part-time study.

For-profit institutions must become more accountable to their students. For-profits are the beneficiaries of taxpayer funded financial aid, and it is our responsibility to ensure that aid is being spent on an education that improves the lives of students and does not burden them with debt. I believe this proposed rule will both enable prospective students to better make informed decisions about what school and program is right for them while also incentivizing for-profit colleges to make improvements to their programs so that they graduate students who are prepared to enter a competitive job market.

To that end, I also intend to introduce legislation that requires for-profit schools spend no less than 50% of their annual revenue on student instruction, academic support, and advising and career services. A separate bill would require NYSED to devise a method to assign "grades" to for-profit institutions based on many of the measures this proposed rule would require institutions to disclose. I look forward to being collaborative with DCA in ensuring our shared goals of protecting New Yorkers from these predatory practices and improving outcomes for students who choose to attend for-profit institutions.

Finally, we also need to address the current problems with distance education. New York is a party to the National Council for State Authorization Reciprocity Agreement, which allows institutions to avoid certain regulatory hurdles in other states in which they wish to provide distance education to students. While being a part of NC-SARA has enabled some good schools in New York to reach more students, it has also has created a race to the bottom for some providers, who set up shop in states with lax regulations. If New York is going to become a leader in protecting students from predatory institutions by enacting rules such as the ones proposed, we need to also consider how being a part of the current NC-SARA agreement would undermine these improvements and think about ways we can work with students, advocates, legislators, and institutions across the country to ensure distance education is meeting students' needs.

Thank you for the opportunity to submit testimony on these important rules. In closing, I want to reiterate that I strongly support the proposed rule on deceptive advertising moving forward with this new rule.

New York State Association for College Admission Counseling
NYSACAC

Four percent of New York's college students attend proprietary colleges, yet proprietary school students account for 41% of NY's student loan defaults and 98% of its fraud claims. You don't have to be a college access professional to see that something is wrong with these figures: students are saddled with debt after attending proprietary schools; if they receive a degree, it often does not qualify them to enter their field of interest or achieve gainful employment.

The mission of NYSACAC is to promote access and equity in higher education throughout New York. Our 1400 members represent K12, Community-based and higher education professionals across our state who work with thousands of students to support them on every step of their higher education journey.

It is because of our mission and the work that we do with students that we support more regulation for all higher education institutions to protect students and taxpayers. Higher education has the opportunity to change the trajectory of a student's life. But that journey deserves to be protected by regulations meant to allow the student the best opportunity for success, both in their postsecondary decision making and during their college career.

Our members, all too often, share experiences they or their students have experienced with predatory practices from proprietary college admission offices such as:

- An admission officer refused to issue a student their financial aid package (thereby not allowing the student to determine if the school was affordable) until the student submitted their $300 non-refundable deposit.
- A student was assured repeatedly by an Admissions Rep that she could enroll prior to earning her high school diploma. She registered for classes, took out a loan, and learned afterwards that she would not earn credit, as she did not complete high school.

As counselors we have both experienced extensive harassment and aggressive recruitment from multiple for-profit institutions. At my small South Bronx public high school, after receiving countless harassing phone calls I had to instruct our school safety officer and office staff to not allow these recruiters into the building and to decline their phone calls. Even after such measures, they continued to call and come in person, including trying to bribe the Parent Coordinator with perfume to gain access to the building.

My colleague, also at a school in the South Bronx experienced similar harassment. Her office phone would often ring 10-15 times in a row, with the recruiter making unrealistic promises- saying any student accepted would receive full tuition scholarships as long as they were PELL eligible. One student took this offer, believing it to be true, even though she had received a full scholarship offer in writing from both SUNY Oneonta and CUNY Lehman College. The promises they made her were false and she was forced to take out loans. Her mother, an undocumented worker, had fallen at work that year and had to stop working for six months. The student was forced to drop out saddled with debt, as she could not cover her tuition bill.

These examples, of which there are many more, go against everything we value in our profession: it hinders a student's ability to make their own, fully informed decision about where to attend college. It pressures students into believing their education will cost less than it does. It limits their potential for financial freedom. Our students deserve to attend institutions that are as committed to their success as they are.

Sincerely,

Julia Forman, Government Relations Committee, NYSACAC
Emily, Task, Government Relations Committee, NYSACAC

NEW YORK LEGAL ASSISTANCE GROUP

Comments on DCA Proposed Rule Amendments Regarding Deceptive Advertising by For-Profit Educational Institutions

The New York Legal Assistance Group (NYLAG), a not-for-profit legal services organization, submits these comments regarding the NYC Department of Consumer Affairs' (DCA) proposed rules amending Chapters 5 and 6 of Title 6 of the Rules of the City of New York to prohibit deceptive trade practices by for-profit schools.

NYLAG uses the power of the law to help New Yorkers in need combat social and economic injustice. We address emerging and urgent legal needs with comprehensive, free civil legal services, impact litigation, policy advocacy, and community education. We are dedicated to providing free legal services to low-income New Yorkers with student loans and other consumer debt through our Consumer Protection Unit and Special Litigation Unit.

At NYLAG we often encounter student loan borrowers who are struggling with devastating student debt burdens they cannot afford to repay because they attended high-cost schools that provided them with little or no value and left them with no more marketable skills than they had before enrollment. Almost always, these students attended for-profit schools. In general, for-profit schools charge high costs, but spend significantly more on profit and advertising than they do on instruction, and have, on average, the lowest graduation rates, lowest employment rates and highest loan default rates among all postsecondary schools.[1] Since for-profit schools often provide little to nothing of value, students are left both indebted and in a worse position to pay off their loans. This leads to high rates of default. In New York, for-profit schools enroll 6 percent of undergraduates, but account for 41 percent of student loan defaults.[2]

NYLAG also often works with clients who incurred student debt because a for-profit school enticed them to enroll with false promises and deceptive recruitment tactics. NYLAG commonly encounters student borrowers whose schools lied to them about the likelihood that they would get a job in their field, lied to them about their ability to transfer credits to or from other schools, and lied to them about the cost of attendance. We have also seen clients whose schools deceived them into taking out loans when they explicitly stated they did not want loans.

NYLAG strongly believes that effective oversight of postsecondary schools could ensure that all schools in New York City provide real, meaningful educational opportunities to students

[1] U.S. Senate Health, Education, Labor and Pensions Committee, For-Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success (2012), https://www.help.senate.gov/imo/media/for_profit_report/ExecutiveSummary.pdf.
[2] Center for an Urban Future, Deeper in Debt: For-Profit Schools Driving Student Loan Default in New York State (2018), https://nycfuture.org/research/for-profit-schools-driving-student-loan-default-in-new-york.

they enroll. Unfortunately that crucial oversight is rarely exercised. The current U.S. Department of Education has systematically reduced oversight by delaying or failing to enforce regulations that were designed to protect students defrauded by their school, making it even more imperative that New York City act to protect students.

I. NYLAG Supports the DCA's Proposed Rule

NYLAG commends the DCA for proposing rules that seek to provide additional oversight and address the harms caused by for-profit schools. NYLAG believes that these rules will be effective in curbing deceptive and abusive practices by for-profit schools and will help ensure that all students who enroll at a post-secondary institution are able to make an informed decision about the benefits of enrollment. We believe, however, that the proposed rules could be more effective with more robust disclosure and record keeping requirements and by providing additional examples of deceptive behavior, among other modifications. Thus, we suggest the following changes to the proposed rules.

II. Additional Affirmative Disclosure Requirements

NYLAG's for-profit school student clients are often unable repay their loans because their schools provided them no additional skills or job prospects. These students are at significant risk of default. Therefore, in addition to the required affirmative disclosures proposed under § 5-52 (d), we recommend the following disclosures regarding debt and repayment.

- A requirement for the institution to disclose the percentage of student borrowers who paid any part of the principal balance on their loans within three years of leaving the institution.
- A requirement for the institution to disclose the percentage of student borrowers who default on their loans within three years of leaving the institution.

Additionally, NYLAG's for-profit school student clients are often unaware of the requirements necessary to enter their field of choice and are misled by institutions into believing that simply completing a program at the institution will make them eligible, when in fact there are necessary licensing requirements for a profession, or they are categorically ineligible for employment in a profession for a reason like having a criminal record. Therefore, we recommend adding to § 5-52 (d) a requirement for the institution to affirmatively disclose any licensing or other mandatory requirements, as well as any disqualifying characteristics, for professions within each program's field of study.

Finally, some of NYLAG's student clients knew to be wary of for-profit institutions when they were considering schools, but could not tell which schools were for-profit schools and which were not. Therefore, we recommend adding to § 5-52 (d) an affirmative requirement for institutions to disclose their for-profit status to prospective students.

III. Additional Record Keeping Requirements

We believe the record keeping requirement proposed under § 5-52 (d) should be made stronger by requiring the institution to share signed disclosures with more entities and that the disclosures be retained for a longer period of time. Therefore, we recommend:

- A requirement for the institution to give a copy of the signed disclosures to the student.
- A requirement for the institution to file the signed disclosures with the DCA within 72 hours of signing. This requirement would mirror the foreclosure proceeding requirement that 90-day default notices be filed with the NYS Department of Financial Services.
- A requirement for the institution and the DCA to retain the signed disclosures for a minimum of ten years after signing. A ten-year retention period would allow for the six-year statute of limitations on common law fraud claims to run after a student has left the institution, assuming four years for students to complete a program.

IV. Additional Examples of False or Misleading Representations and Prohibited Practices

Our clients have experienced false or misleading representations and deceptive trade practices not yet included under § 5-52 (b) or (c). Therefore, we recommend expanding or editing those sections in the following ways:

- § 5-52 (b) should be expanded to include a subsection on misrepresentations regarding the existence or quality of facilities or equipment to be used in the program.
- § 5-52 (b)(12) should be amended to include, as an example of a false representation of instruction, when classes are taught by other students or non-accredited teachers instead of trained professionals.
- § 5-52 (b)(16) should be edited to require schools to disclose which tests the students will be required to take for enrollment in the school as well as completion of the program[s], as well as the costs of those tests.
- § 5-52 (c)(3) should be strengthened to require institutions that require their students complete an internship to graduate to do more than just provide personnel to assist in locating internships. For instance, such institutions should have preexisting relationships with employers where institutions know students can find an internship.
- § 5-52 (c)(7) should be edited to also prohibit institutions from referring to salespersons as "financial aid officers," or similar financial aid titles, as for-profit schools often disguise recruitment and sales roles in financial aid offices.
- § 5-52 (c)(7) should be expanded to prohibit references to "financial aid" without an accompanying explanation that such "financial aid" may include loans that will have to be repaid; and also include a prohibition on providing predictions about monthly student

loan payments or suggestions that students will not have to repay loans unless they have jobs.

V. Other Comments

Finally, we recommend editing the definition of "graduation rate" under § 5-52 (a) to better fit programs that last more than two years, as the current definition only compares graduates in the last two years to enrollments in the last two years.

VI. Conclusion

NYLAG respectfully submits these comments and requests that the proposed rules be redrafted to incorporate the above recommendations. NYLAG thanks the DCA for the opportunity to participate in the enactment of these vital regulations.

Dated: April 4, 2019
New York, New York

Beth Goldman

Beth Goldman, Esq.
President and Attorney-in-Charge

Daphne Schlick
Director, Consumer Protection Unit

New York Legal Assistance Group
7 Hanover Square
New York, NY 10004
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April 4, 2019

Casey Adams

Director of City Legislative Affairs

New York City, Department of Consumer Affairs

42 Broadway, 8th Floor

New York, NY 10004

Comments on Proposed Rules on Deceptive Advertising by For-Profit Educational Institutions

I became a first-generation Mexican-American College Graduate at the age of 20 when I received my Bachelor of Business Administration in Accounting at Berkeley College back in May 2017. I am also from New York City: born in Harlem and raised in Queens. Most of the time, I took classes in the NYC Midtown location with a few exceptions when I took online courses.My degree opened-up an entire industry of opportunity and I quickly found a job working as a Junior Accountant at a start-up called "Baublebar,Inc. Interviewing for jobs was relatively easy since I utilized the career resources available such as practicing interview questions with my career counselor, reviewing my resume, and even picking-out proper interview attire online. My high school Berkeley College Recruiter emphasized to me that upon my graduation, I will have an advisor helping me every step of the way. This was a real selling-point and showcased why my investment in my education at Berkeley College would be worth it. I never once felt lied to and during my transition from academia to my professional life, I was more than happy with my decision to be part of the Berkeley College Family. To silence Berkeley College with these proposed rules and not allow them to communicate openly about available career resources will be a major disservice to potential students.

Currently, I am 22-years-old and have taken on a new role as a Staff Accountant at Four Sigmatic. I have also completed three parts of the Certified Public Accountant Exam. A requirement to obtain my license is that I pursue 30 more higher education credits. As I research different Grad schools, I come to realize that none offer the level of personal attention and transparency that I experienced during my Berkeley College Application process. My experience at Berkeley College is one of full visibility into monetary costs and a precise walkthrough on the benefits of my educational investment. To label them as “predatory” and to insinuate Berkeley College is misleading is utterly unjust and without merit.

Lastly, I want to highlight an important side-note: I applied to multiple public city colleges and was rejected by all of them except a 2-year city community college. I was a 17-year-old first-generation Latino being told I was only worth a city community college education. However, when I received an email to apply to Berkeley from an actual human-being, I jumped at the chance to be part of a 4-year bachelor’s degree program. I had a Berkeley College high school recruiter who took the time to meet with me in person and get to know me as an individual—not just as an SAT score and not just as a cumulative grade. Berkeley College’s outreach program allows them to offer an opportunity to those that are shunned and ignored everywhere else. The NYC Department of Consumer Affairs will *hinder* and *decrease*, with its proposed legislation, opportunities for people to learn about an organization which cares deeply for the future of its students.

Best,

Alexis Javier Gonzalez

NEW YORK CITY DEPARTMENT OF CONSUMER AFFAIRS

Public Hearing and Opportunity to Comment on Proposed Rules

Contact: Jackie Ruegger
jruegger@monroecollege.edu
718-933-6700, ext. 6455

April 4, 2019

Testimony of Marc Jerome

President, Monroe College

My name is Marc Jerome, and I am the President of Monroe College in the Bronx. Thank you for allowing me to share my perspective today.

I fully agree with the goals of protecting students from too much debt, low graduation rates, and false and misleading information. However, the proposed rule will cause more harm than good, will not help students and will not eliminate the bad behavior that is alleged. The rule also unfairly penalizes too many ethical institutions like mine and doesn't do enough to protect low-income students wherever they attend.

If you take one thing away from my comments today it is this: higher education as a whole is failing low-income students in New York City, especially students of color. Whether we look at graduation rates or loan default – shockingly weak outcomes for low-income students and students of color demand accountability across the board.

About Monroe College

86 years ago, in 1933, my grandfather and great aunt founded Monroe College. I am the third generation of my family to lead the institution and I am passionate about what we do.

Significantly, our Bronx Campus is located in the poorest congressional district in the country, but has some of the best outcomes for low-income and first-generation students of any institution across all sectors. Monroe has implemented an innovative program enabling close to 1000 high school students to attend debt free and the first cohort graduated at a 70% rate. The College also has a Dreamer's Initiative which provides full scholarship to close to 80 undocumented students. Our on-time two-year graduation rates are consistently more than ten times higher than those of our local public two year colleges.

Monroe competes directly with local public and non-profit colleges. It is of the utmost importance that students can accurately compare programs at differing institutions. The proposed rule requires Monroe to disclose certain information about its programs which will mislead prospective students.

The Current Climate Around Higher Education Has Become Too Divisive

I am respectfully asking for a lowering of the inflammatory rhetoric to describe every institution in the for-profit sector. Using words such as "predatory" is unfair as a blanket statement about all for-profit institutions and it immediately stifles thoughtful discussion. Similarly, characterizing all for-profit colleges as offering worthless degrees or low graduates rates is simply false.

THE OUTCOMES DATA FOR LOW-INCOME STUDENTS DEMONSTRATE THE NEED FOR ACCOUNTABILITY AT ALL INSTITUTIONS ACROSS ALL SECTORS

Consistent Consumer Information

Students and families deserve accurate, easy to understand, and consistent information on the programs or schools they want to attend. Yet, the proposed rule only requires for-profit institutions to provide information and warnings. *All students should be able to compare information about similar programs and be warned if outcomes are weak.*

Graduation Rates Are Too Low

Students should have a reasonable expectation that they will graduate from the college they want to attend. Colleges should be held accountable if too few students graduate. But in too many schools across all sectors, this is not happening. *According to the New York State Education Department's ORIS website, the on-time graduation rate statewide for all* *two-year institutions is 12.5%. In New York City, the on-time graduation rate for public two-year institutions is 5.5%. Thirty colleges in New York State have on-time graduation rates less than 10%, only one of which is for-profit and it has closed. Of the thirty, fifteen colleges in NYC have on-time graduation rates below 10% – and this is for full-time students.* There seems to be no accountability for these unacceptable results – whether it be from accreditors, the federal government, or boards of trustees.

Yet, the Department of Consumer Affairs states as a basis for the proposed rule, "Many students leave these schools without diplomas and graduation rates are very low." *We find the State and City data do not support a rule that only targets for-profit institutions when low graduation rates, especially for low income students, are commonplace at public institutions.*

Default Rate Accountability

Monroe College's current three-year default rate is 3.9%. There are thirty-six degree-granting institutions in New York State that have default rates above 15% – twenty-two public, two private and twelve for-profit. *The problem of default is not limited to for-profit colleges*. All students deserve warnings. These institutions should be held accountable to improve their results.

The Higher Education Landscape Has Changed Dramatically: Aggressive Recruitment Practices, Shady Financial Dealings and High Growth Institutions Can Be Found Across All Sectors

- A recent article in Forbes Magazine notes that Southern New Hampshire University spends 20% of its budget on advertising (over $100,000,000) and the article noted that "margins in the online division are a fat 24%."[1]

- After more than 100 years in existence, the College of New Rochelle announced its closure.[2] What many don't know is that the closure stemmed from financial impropriety in the administration. In addition, CNR had contracted with an outside for-profit enrollment group, paying a per student fee for each enrollment, which is prohibited by the US DOE.

1 https://www.forbes.com/sites/susanadams/2019/03/28/meet-the-english-professor-creating-the-billion-dollar-college-of-the-future/#6772882a426b

2 https://www.lohud.com/story/news/education/2019/03/05/college-new-rochelle-closing-mercy/3065163002/

- Similarly, Syracuse University advertises on local NYC radio for its online graduate degrees. What the public does not know, is that it is not Syracuse University themselves advertising. Rather, it is an Online Program Manager named 2U, which is for-profit.[3]

- We also are aware of a number of upstate public residential colleges that have both open admission and require low income NYC students to borrow heavily for the dorms. This combination of open admission and borrowing for dormitories results in exactly the type of problems the Department of Consumer Affairs is referring to in its proposed rule, but these institutions would not be subject.

- Lastly, we are aware of upstate non-profit institutions who license out their name and degree to unregistered for-profit entities in exchange for revenue.[4] With many public and non-profit institutions attempting to scale nationally and at least 525 public and non-profit schools hiring for-profit Online Program Managers, and so many recent for-profit conversions, it's hard to tell what the future holds.

Consistent Accountability Is Appropriate for All Higher Education Institutions

The notion that the difference in sector oversight justifies separate protections for students just does not withstand scrutiny. Public boards often provide political oversight, not outcomes oversight. If the oversight was effective, there would not be so many public and non-profit institutions with such poor outcomes. High school principals would lose their jobs if their on-time graduation rate were below 10%.

3 https://ischoolonline.syr.edu/about/2u/

4 https://www.yelp.com/biz/skidmore-college-computer-career-institute-white-plains

Proposed Rule

Reclassifying admissions counselors as "salespeople" is insulting and inaccurate

Monroe College prides itself on our integrity and the integrity of our faculty and staff. Our admissions advisors and counselors truly advise and counsel students. They undergo rigorous training. Each admissions advisor follows a Code of Conduct (see attached) which requires them to "Always act in the best interest of students and their families." Contrary to your implication that these staff members are salespeople, they truly review the academic and personal background of each student to determine their likelihood of succeed at Monroe. Each year, thousands of students who apply are not admitted for enrollment.

Limiting the number of contacts with prospective students to twice per week

We understand the intent of this provision is to prevent unwanted intrusion into a student's life. However, in practice, the provision is impractical, especially with first generation students who intend to enroll, but require multiple contacts and visits in order to complete the process.

The graduation rate metric Is irrational and will mislead students

All students should be able to compare information about similar programs and be warned if outcomes are weak. The proposed rule would require for-profit institutions to disclose a separate graduation rate using an irrational formula. A student choosing between Monroe College's nursing program and Bronx Community College's nursing program will be misled and confused by the differing metrics.

According to the proposed rule, the graduation rate is to be calculated as follows:

"Graduation rate" means the number of students who received certificates, diplomas, or degrees in the program during the latest two calendar years, divided by the number of students who enrolled in the program during the latest two calendar years. The graduation rate shall be determined within 180 days from the end of each calendar year.

This definition does not resemble any acceptable graduation rate metric and will result in misleading and contradictory information being disclosed.

POLICY PROPOSALS

1. **Accountability and consumer protection should be extended to all institutions across all sectors and all students.**

2. **Track NYC students' enrollment and graduation data by institution.**

   Currently, there is no information available to shed light on which institutions successfully enroll and graduate students from NYC. We are especially concerned that many low-income NYC students choose to study upstate and incur excessive debt for housing without graduating.

3. **Commission a study to measure TAP usage by institution, divided by the number of TAP students who graduate.**

   With TAP expenditures approaching $1 billion for the 2017-2018 year, the State should measure what it gets in return for the spending.

4. **Require disclosure for online program managers (OPMs)**.

   With many public and non-profit institutions attempting to scale nationally and at least 525 public and non-profit schools hiring for-profit OPMs, and so many recent for-profit conversions, it's hard to tell what the future holds.

5. **Prohibit educational websites from requiring personal contact information prior to entering the site.**

6. **Put limits on marketing and advertising expenditures as a portion of budget.**
   Years ago, it was the publicly traded for-profit entities that spent huge sums on marketing and advertising. The world has changed. Non-profit and public institutions are now reported to be the largest spenders.

7. **Ban the use of arbitration agreements.**

8. **Ban colleges from licensing their name and degrees.**

Guidelines for Admissions Advisors

Monroe College is committed to delivering the best outcomes in the country for diverse students from urban backgrounds. Too often, first-generation college students – or those from economically disadvantaged backgrounds or who graduate from poorly performing high schools – do not receive adequate guidance regarding their college choices or the financial implications of attending college. Through its myriad student support functions, Monroe works to help students access the resources they need to make better-informed choices about their education.

Code of Conduct

Monroe College supports and adheres to the Code of Conduct issued by the American Association of Collegiate Registrars and Admissions Officers (AACRAO), and adopts its principles of professional ethics and practice as its own across all academic and enrollment functions. That policy, which follows on page four, should guide your professional conduct at the College.

In addition, you should be guided by the following principles specific to Monroe College throughout your career at the College:

- Always act in the best interests of students and their families.
- Be fair, respectful, and reliable at all times, and conduct yourself with professionalism, integrity, and honesty.
- Be transparent and communicate frequently to keep students, parents, and the schools assigned to you well-informed. Be collaborative with colleagues, and always provide clear, accurate complete communications that is easy to understand.
- Be discerning with your admission recommendations. Only accept students you feel confident meet our academic requirements and will benefit from an education at the College; we seek students who will be a positive addition to the campus community.
- Work to support the College's goal of increasing access and college completion rates among students in our local communities.
- Assist with the College's goal of assisting local high schools increase their graduation rates as well as the college graduation rates of their students.
- Support the College's goal of increasing the college graduation rates of our borough, the Bronx, and the communities we serve in the greater NYC area.
- Partner with the Office of Student Financial Services whenever possible to provide students and families with meaningful assistance and information.
- Wherever possible, establish a relationship with the college counselor and principal to facilitate effective communications with the school.
- Maintain a relationship with students you admit as they progress with their studies at Monroe.

From: Marc Jerome
To: Rulecomments
Subject: Additional Comment on Proposed For-Profit College Rules
Date: Thursday, April 4, 2019 3:23:13 PM

Casey Adams
Director of City Legislative Affairs
NYC Department of Consumer Affairs
42 Broadway, 8th floor
New York NY 10004

Re: Comments Concerning Broad Definition of For-Profit Institutions Section 5-52(a)

Casey:

Please accept these additional comments about the proposed for-profit college rules.

Section 5-52(a) includes a definition of “for-profit institutions” that is very broad and may be problematic for many not-for-profit colleges. It defines as a “for-profit institution” “any not-for--profit institution if one or more members of the governing board of the not-for-profit institution (other than ex-officio members serving at the pleasure of the remainder of the governing board and receiving a fixed salary), …receives any substantial direct or indirect economic benefit (including a lease, promissory note, or other contract) from the not-for profit institution.”

Many board members of "not-for-profit institutions" (including schools that are exempt from the licensing requirement of section 5001(2)(a) of the Education Law) receive compensation as board members which can be substantial and could be considered a "substantial direct ... economic benefit." Also, some board members provide services to the institution they work for (subject to review under Conflict of Interest policies). As a result, institutions who hire their board members (or companies owned by their board members) to provide legitimate and reasonable services for reasonable compensation could be picked up in this definition. Also, would it be an indirect, but substantial economic benefit, if a spouse or child of a board member of a not-for-profit institution was paid by the institution for legitimate services (even though the board member was not paid)?

However, board members are exempted under the proposed language if they are "ex officio member serving at the pleasure of the remainder of the governing board AND receive a FIXED salary." Does that mean that a president of a not-for-profit private university who receives a fixed salary PLUS a performance bonus or other variable compensation would no longer be exempt under this language? In any event there are many directors of not-for-profit boards who are not serving as ex officio members who receive compensation from the institutions they serve. If a not-for-profit university pays compensation to its board members or hires its board members to provide services, it seems those schools would be included in this definition.

Marc M. Jerome
President
Monroe College
A NATIONAL LEADER EDUCATING URBAN AND INTERNATIONAL STUDENTS
Direct Line: 9147406803
Cell: 9172828059

April 4, 2019

Casey Adams

Director of City Legislative Affairs

New York City, Department of Consumer Affairs

42 Broadway, 8th Floor

New York, NY 10004

Berkeley College has made a great impact on my life. Growing up in a family of sixteen living in South Jamaica Queens, college was not seen as obtainable. Being the fourteenth child, I did not receive much encouragement for my success from my family or friends. When I visited Berkeley College, the atmosphere was amazing, and the staff were friendly. I was given a proper breakdown of what is expected of me to graduate and have received help every step of the way. The professors and staff listened to all my concerns while giving advice on the steps I would need to take. The facilities within this school are exceptional; if there was a need for a job or internship, then the Career Services department was always there to assist me. Berkeley College has been so great to other students and me while teaching us about what it takes to succeed in the business world. I am very happy to have been a Berkeley College student and the inspiration this school has given me is exceptional. I came into this school only thinking about myself and only my success and ending up helping others reach their success while inspiring them to always reach for a better future. I have become a great leader due to the school while becoming the

President of the National Society of Leadership and Success, member of the Student Government Association, VP of Public Relations of the business club DECA, along with a plethora of other groups that I have dedicated my time to. Through Berkeley College seeing various qualities in me, I have led many to become inducted into the Honor Society and attend a multitude of community service events. Being able to attend the Crain's New York Business Breakfast events along with other networking events, I have met many established individuals and able to converse on what motivates them along with getting tips on success. I am happy to have been part of this college and this school has given me many memories while showing me that I could be just one person and still make an impact on others. I am against these regulations being proposed on Berkeley College, this school has done so much for their students and have been such great help for them in the success of their future. I speak as a student that has attended this school and being fully aware of what was required to attend. There was nothing hidden from me upon entrance and I have enjoyed every moment being here while gaining tons of knowledge and experience. Being grateful for attending this school is only half of the feelings that I have while being here, there is so much that Berkeley has to offer, and many have benefitted from being part of this school.

Thank You.

Adam S. Karriem

From: agnes lewis
To: Rulecomments
Subject: Student loan delima
Date: Thursday, April 4, 2019 11:36:46 AM

Sent from my iPhone
A recruiter from ASA college I met on the street convinced me to sign up. I went into their office and I was ready to start classes immediately. I was qualified for financial aid, so I thought that would cover my tuition. The intake person didn't advise me that I was taking out a student loan. If I was aware I was taking out a loan I would have changed my mind from applying. I was shocked when I received a bill from Salle Mae. At the time of registration I was trying to read the fine print and the young lady was agitated, and rushed me out of the office. They said that they would apply my credits from my previous school and the didn't. I was there for two semesters and they failed me the English that I had done at the previous school that they said they were going to credit me, they want me to retake it and I refused, I've between jobs for some years and I'm over the age of 50, I cannot stay in school anymore, I thought getting a higher education would have advance my opportunity but it didn't. I have to return to jobs that I don't need a degree to do.
Thank you

BROOKLYN | HISPANIC
KINGS COUNTY
CHAMBER | COMMERCE

BROOKLYN (KINGS COUNTY)
HISPANIC CHAMBER OF COMMERCE, INC.
CAMARA DE COMERCIO HISPANA DE BROOKLYN
BUILDING BRIDGES FOR BUSINESS WITH BUSINESS
CONSTRUYENDO PUENTES PARA NEGOCIOS CON NEGOCIOS

April 4, 2019

Casey Adams
Director of City Legislative Affairs
New York City, Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

Re: Proposed Rules Regulating For-Profit Colleges

Dear Mr. Adams,

I write this letter on behalf of the Brooklyn Hispanic Chamber of Commerce to express my concern regarding the Department of Consumer Affairs' (DCA) rules that unfairly target proprietary sector colleges.

Our Chamber collaborates with a number Colleges throughout Brooklyn, such as Berkeley College. I can speak to the quality and commitment of Berkeley College. Berkeley provides education to thousands of Latino and African-American students, many who are the first in their families to attend college. These students deserve the opportunity to advance their futures freely and unconditionally.

Berkeley College's students have positive partnerships in our community. The College is an economic engine and serves as a workforce pipeline, capable of identifying the needs and opportunities to work with organizations like the Brooklyn Hispanic Chamber.

Rules of particular concern are the ones proposed by the DCA that seek to apply a standard of whether an institution "knows or should know" that a student will not, or is unlikely to, graduate and meet requirements for future employment. This proposed rule would be detrimental to the hardworking students enrolled at proprietary-sector institutions and the tens of thousands of alumni who work, and help their families and our communities thrive.

Each of us faces challenges that require adjustments at various points in our lives. We know Berkeley College to be a trustworthy partner in the community and for Berkeley College students and alumni, offering lifetime career assistance to graduates at no charge. This flexibility is important to students who are juggling work, school and caregiving responsibilities, often at the same time.

On behalf of the Brooklyn Hispanic Chamber of Commerce, I urge the DCA to reconsider these rules and explore how the agency can work more collaboratively with Berkeley College and all educational institutions that are helping New York residents succeed. Berkeley College has a good record of preparing students and graduates for success and helping New Yorkers gain upward economic mobility.

We need to preserve and expand educational opportunities in order to build on the momentum of Brooklyn's growing economy with a qualified workforce. We should strengthen our support of New York City's colleges, regardless of sector, for the good of all of all of New York residents and students.

Sincerely,

Rick Miranda

Rick Miranda
Brooklyn Hispanic Chamber of Commerce
President/CEO

TESTIMONY FOR A HEARING ON:

PROPOSED RULES ON DECEPTIVE ADVERTISING BY
FOR-PROFIT EDUCATIONAL INSTITUTIONS

PRESENTED BEFORE:

NEW YORK CITY DEPARTMENT OF CONSUMER AFFAIRS

PRESENTED BY:

EVAN DENERSTEIN
SENIOR STAFF ATTORNEY
MOBILIZATION FOR JUSTICE, INC.

April 4, 2019

MOBILIZATION FOR JUSTICE, INC.
100 William Street, 6th Floor
New York, NY 10038
212-417-3700
www.mobilizationforjustice.org

I. Introduction

Mobilization for Justice (MFJ) envisions a society in which there is equal justice for all. Our mission is to achieve social justice, prioritizing the needs of people who are low-income, disenfranchised or have disabilities. We do this through providing the highest quality direct civil legal assistance, providing community education, entering into partnerships, engaging in policy advocacy, and bringing impact litigation. We assist more than 10,000 New Yorkers each year, benefitting over 25,000. MFJ's Consumer Rights Project provides advice, counsel and representation to low-income New Yorkers on consumer problems, including issues related to for-profit education.

MFJ is grateful to the New York City Department of Consumer Affairs for the opportunity to comment on the Department's proposed rules prohibiting deceptive trade practices by for-profit schools that are not licensed by the New York State Education Department or accredited by the New York State Board of Regents. MFJ applauds the Department for taking action on this critical issue.

II. MFJ's Work with Borrowers of Student Loans

Based on the experience of MFJ's attorneys, student loan debt is one the most common sources of financial instability for New York City residents. It is also our experience that the majority of borrowers struggling with student loan debt attended for-profit schools. Many of these schools fail to benefit its students, misrepresent the resources provided by the school, mislead students about the cost of attendance and availability of financial aid, and engage in other unfair and predatory practices. Our clients' stories reveal certain practices by for-profit schools that consistently harm students, meriting more robust protections than for students of non-profit schools.

MFJ often hears from borrowers whose for-profit schools misled them about the resources and benefits of attending the school. Mr. R had been a construction worker for over 11 years. Having difficulty finding work in 2011, he attended a for-profit vocational school providing certifications in construction, plumbing, electrical repair, and carpentry. The school had promised him job placement services. Believing that the certification would enhance his resume and these services would help him find employment, he enrolled in the six-month program. Upon graduating, he worked with the job placement office for well over a year, but found the office to be of little help. Instead of helping him to finding work in his field, it encouraged him to apply for jobs that had little to nothing to do with his certification. He was finally able to find employment as a per diem janitor at a hospital. As a result of attending this school, he is $5,000 in debt.

Mr. C enrolled in an auto mechanic certificate program based on promises made by a recruiter about future earnings and employment opportunities. Mr. C was told that there would be at most nine students in each class. However, there were over 25 people in the class and only three cars for the students to work on, which severely limited the time students had to gain hands-on practical experience. In addition, the class was taught in Spanish, but the textbook and all of the tests were in English. He has been unable to find work as a mechanic. Because he could not find work, the school advised him to lie to prospective employers and tell them that he had three years of experience. After completing the program, Mr. C returned to working in restaurants and owes approximately $16,000 in student loan debt.

For-profit schools target individuals with low income. MFJ assisted one client who attended a one-year electrical technician program, about which he learned through a recruiter at a local public assistance office. He chose the program specifically because it advertised hands-on experience. The student received limited opportunities for working directly with the relevant equipment, and the opportunities ceased altogether after a few months. As a result, he withdrew from the program. When he asked the school for a complaint form in order to file a grievance about the lack of resources and misleading recruitment tactics, the school refused to provide one. When the client asked to speak to the head of administration, he was told to return the next day, at which point the administrator refused to speak with him. Shortly thereafter, the school sent a letter to his case manager at the public assistance office, stating that he had missed more than three days of classes. As a result, his benefits were cut off, which resulted in him having to prove he attended the school with his attendance records to reinstate access to his benefits.

For-profit schools enroll students that it knows or should know will not benefit from the school's program. MFJ assisted one client who has a disability that interferes with his ability to read. He enrolled in a school because of marketing material that advertised: "No Diploma. No problem." Due to difficulties with reading comprehension, he failed his ability-to-benefit exam on his first attempt. The client later enrolled; however, he eventually dropped out because he was unable to keep up with the instruction. He continued to pay the school for 10 months after he unenrolled, and he continues to receive collection calls from the school.

Students are often unaware of the cost of the school or the amount of loans they are taking out. One student reported that she thought that "financial aid" meant that the state covered all of her education expenses. Other students report for-profit schools completing financial aid applications on their behalf, leaving the students completely unaware of the amount of debt they are incurring.

III. Recommendations

1. Provide Students with Opportunities for One-On-One Counseling Prior to Enrollment in For-Profit Schools

In our experience, written disclosures alone have limited positive impact on consumers' decisions. Some academic studies confirm this finding.[1] Providing students with an opportunity

[1] *See, e.g.,* Jeff Sovern, *"Whimsy Little Contracts" With Unexpected Consequences: An Empirical Analysis of Consumer Understanding Of Arbitration Agreements*, 75 Md. L. Rev. 1, Fn. 81 (2015) (*citing to* Omri Ben-Shahar & Carl E. Schneider, More Than You Wanted to Know: The Failure of Mandated Disclosure 10 (2014) ("Ben-Shahar and Schneider compiled a list of reasons why consumers ignore disclosures, including: (1) They think they know what they say. (2) They look irrelevant. (3) They think that what they get and how they are treated depend more on the person or place they're dealing with than any disclosure. (4) They think transactions are safe. (5) They've got to have this no matter what the disclosure says. (6) Companies use fine print to protect themselves. (7) Disclosees soon learn (to paraphrase Thurber) that disclosures tell them more about penguins than they want to know, but incomprehensibly. (8) Disclosees do not always recognize that they are being given information they are supposed to study and use. (9) Boring!") (internal quotations omitted).

to discuss their options with a neutral third party with expertise in education and finance, possibly through the Department's Office of Financial Empowerment, will help students better understand and more carefully consider their options. Information about how to access this direct assistance should be provided on the required disclosure forms.

2. **Continue the Department's Focus on Enforcement Against For-Profit Schools for Deceptive and Misleading Acts**

The Department's proposed rules set forth a comprehensive and impressive set of prohibitions. As stated above, disclosures can only go so far in in curbing predatory business practices. Enforcement actions provide a greater deterrent for businesses to engage in deceptive and misleading practices and can better inform the public of institutions that prey on unsuspecting consumers. MFJ applauds the Department for its lawsuit against Berkeley College. We believe that investigations and enforcement actions that rout out deceptive practices, such as the action against Berkeley College, are a more effective means of protecting consumers than disclosures alone.

3. **Provide Additional Information that will Allow Students to Make More Informed Decisions**

MFJ recommends that the Department make publicly available on the Department's website the required disclosures in § 5-52(d) of the proposed rules. This will provide students with an opportunity to research and compare schools' costs and outcomes in advance of recruitment and during the required 72-hour period between receipt of the mandated disclosures and signing a contract to enroll in the school. In addition, because for-profit schools will sometimes disparage publicly funded schools as a means to push students away from more affordable options that provide similar or better prospects for future employment and earning potential, the Department's website should inform students of the total program cost and median cumulative debt for CUNY and SUNY schools.

Conclusion

Mobilization for Justice thanks the Department for addressing the problem of deceptive and misleading tactics by for-profit schools, which is in dire need of attention by municipal and state agencies. We are committed to continue working with the Department on exploring opportunities to assist New York City student loan borrowers struggling with student debt and protecting them from predatory practices by for-profit schools.

March 30, 2019

Mr. Casey Adams
Director of City Legislative Affairs
New York City, Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

Re: Proposed Rules Regarding Deceptive Trade Practices of For-Profit Educational Institutions

Dear Mr. Adams,

As Executive Vice President/Secretary of the International Women's Entrepreneurial Challenge Foundation, I would like to state my opposition to the "Deceptive Advertising by For-Profit Educational Institutions" proposed Rules by the New York City Department of Consumer Affairs (DCA). One of the institutions which these proposed Rules intend to target is Berkeley College, a school I have had the pleasure to work with over the years.

The proposed rules set forth by the DCA to govern Berkeley College are inconsistent with existing standards and practices applicable to other colleges. The way these rules are written by the DCA serves the sole purpose of attempting to shoehorn educational practices into NYC DCA's jurisdiction and would end up harming students. For example, as written in these rules, the DCA is attempting to classify admissions counselors as "salespeople" in an effort to bring the activities of Berkeley College under NYC DCA's purview.

Education is not a retail transaction, nor a consumer good or service, and admissions counselors are not "salespeople." Salespeople sell a product without regard for consequences, whereas Berkeley College admissions counselors receive training and possess intricate knowledge of admissions requirements and student expectations for academic achievement. To refer to admissions counselors as "salespeople" is to downplay and crudely mischaracterize the critical role they serve in assisting students, especially students from low-income families and who are first-generation college attendees. This mischaracterization is a contrived attempt to regulate an industry that is entirely outside the DCA's authority and expertise.

Under New York State law, and in practice, Berkeley is not a business, but a college. That means the New York State Education Department's Office of College and University Evaluation, Office of Professions, and Office of Higher Education, all have oversight of the institution. Accordingly, Berkeley must abide by all requirements related to granting degrees and ensuring quality of academic programs.

Berkeley takes very seriously their role in preparing students for a successful future. I have had the pleasure of speaking to Berkeley students and faculty at the institution's annual Women's Leadership event. I am impressed by the determination of the students and the dedication of the faculty and staff to provide students with both the academic rigor and professional insight to launch their careers. I would urge DCA to visit the Berkeley campus and speak to the faculty and students. I guarantee you will be impressed with the community that exists at Berkeley. Their Student Life and Career Service offerings are truly unmatched.

The DCA Rules would only harm the dedicated students at Berkeley College, a population that thrives in Berkeley's small class sizes and individualized attention. Berkeley's population is diverse, by both ethnicity and age, and the College serves a large population of international students. At the International Women's Entrepreneurial Challenge Foundation, we know the critical role that institutions like Berkeley play in welcoming international students.

Berkeley College is an important engine in New York City's economy and is preparing our future workforce. I urge DCA to have a better understanding of how they serve the unique needs of their students before introducing policy that, on its premise, is misleading and unfair.

Sincerely,

Nancy Ploeger
Executive Vice President/
Secretary of the Board of Directors

Public Hearing
Thursday, April 4, 2019
10 a.m.
NYC Department of Consumer Affairs
42 Broadway 5th Floor
New York, NY 10004
Contact: Casey Adams

Testimony by
David Rhodes, President
School of Visual Arts
209 East 23rd Street
New York, NY 10010

In response to
the Department of Consumer Affairs'
proposed new rules regarding
Deceptive Advertising by
For-Profit Educational Institutions

Good morning. My name is David Rhodes. I am the President of the School of Visual Arts, a degree-granting proprietary college located in Manhattan. In addition to my leadership role at SVA, I serve as a member of the New York State Board of Regents Advisory Council and previously as a Commissioner for the Middle States Commission on Higher Education. SVA is also a long-standing member of the Association of Proprietary Colleges (APC) and my testimony today will support the testimony being provided by its President and CEO, Donna Gurnett.

First, I must start by expressing my disappointment and frustration with having to be here today to defend my institution. The rules being proposed by NYC DCA are illogical, deceptive and an insult to my institution and its long history in the city where I live and my family has invested and contributed to helping make NYC a global destination for arts and design education.

Second, referring to my institution as a "predatory for-profit school that lacks oversight" is a calumny. I have spent my entire career working with various regulators (state, federal and non-governmental) to ensure that all colleges and universities behave ethically. I support strong regulations, disclosures that help students make informed decisions, and seek ways to reduce student debt. However, the proposed regulations do not accomplish any of these objectives. Rather, these regulations attempt to return SVA to its days as a single-purpose trade school.

Third, NYC DCA asserts that "These schools" (and, by inference, SVA) "intensively market degree programs to consumers and are supported almost entirely by state and federal loans." With respect to SVA, this statement is false. Students enrolled at SVA receive no loans offered the State of New York. Federal loans to SVA students are 19.1% of tuition revenues, hardly "almost entirely."

Fourth, I am here today to ask that the proposed regulations be amended and that degree-granting institutions that have authority from the New York State Board of Regents to confer degrees be exempted from these regulations. NYC DCA should not be regulating higher education. The regulation of higher education should be left to the State and federal government. Further, higher education is not a consumer good, as that phrase is generally understood, and therefore NYC DCA lacks the jurisdiction to subject my institution to these regulations.

The School of Visual Arts (SVA) was co-founded in 1947 by my father, Silas Rhodes, as the Cartoonist and Illustrators School. In its early days, the institution was a single purpose trade school preparing young men returning from World War II for new careers. At its opening, C&I had 35 students and 3 faculty members. In 1956, the institution's name was changed to the School of Visual Arts to reflect its expanding program offerings and my father's belief that there is more to art than mere technique . In 1972, SVA became the first proprietary college in New York State to award degrees at the Baccalaureate level. In 1978, SVA was accredited by the Middle States Commission on Higher Education. That same year, I was named as SVA's President and I have continued to serve SVA's students in that role for the last 40 years.

During the course of my tenure, SVA has continued to grow and flourish. Today, we offer 11 undergraduate and 22 graduate degree programs in a variety of areas across the arts, including design, the fine arts, film making, photography, illustration, computer animation, advertising, art curation, art education, art therapy, and interior design, among others. We educate over 3,700 undergraduate and 650 graduate students representing 46 states, 2 territories and 53 nations, employ over 1,000 faculty members who are respected artists, scholars, and professionals, and will have over 38,000 alumni living and working in New York City and around the globe. We opened satellite offices in Shanghai and Seoul in order to provide greater support to the institution's international students and alumni. SVA is proud of its long history of excellence as evidenced by its high retention and graduation rates and low default rates.

SVA's impact goes beyond its students and graduates – the institution has been a major part of New York City's arts & culture scene, creative industries, and economic development and sustainability initiatives for decades. In 2009, the college undertook renovations to the old RKO Cinema on West 23rd Street, transforming it into a destination for New York film premiers that also hosts year-round lectures, art performances, presentations, and film screenings – often free of charge – for students, the greater art community, and the general public. The SVA Theater participates in a variety of celebrated film festivals each year, and is a host theater for approximately 50 of the films being screened during this year's upcoming TriBeCa Film Festival.[1] In May, the college will also be participating in NYCxDESIGN, the much anticipated seventh annual celebration of design showcasing the talent of the City's art & design institutions – including SVA, Parsons, Pratt, FIT, and Cooper Union – and highlighting the unique creative, cultural, educational, and economic opportunities in New York City. This two-week event, organized by the New York City Economic Development Corporation (NYCEDC) in conjunction with leaders in the arts community, draws over 330,000 attendees and has an economic impact of $50 million on New York City.[2]

SVA has participated in and hosted numerous other City initiatives over the years. In 2015, Mayor de Blasio launched his One City: Built To Last plan, a ten-year progressive strategy for addressing the effects of climate change in New York City that includes upgrading buildings for energy efficiency and reducing overall emissions. One of the key pieces of the Mayor's plan is the NYC Carbon Challenge, under which approximately 40 major institutions pledged to reduce their buildings' emissions by 30%: In fact, SVA was one of only 12 institutions that are leading the way with pledges to reduce emissions by 50%.[3] In 2017, SVA hosted a lecture by New York City Department of Sanitation Commissioner Kathryn Garcia announcing the launch of the City's Getting To Zero urban planning initiative to reduce the amount of waste New York sends to landfills and better manage the City's complex waste management systems.[4]

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[1] 2019 Film Guide, TRIBECA FILM FESTIVAL, https://www.tribecafilm.com/filmguide?t_name=SVA+Theatre&theater=512cd8461c7d76e046000018.

[2] Press Release, *NYCEDC Unveils NYCxDESIGN 2019 Programming*, NEW YORK CITY ECONOMIC DEVELOPMENT CORPORATION, Jan. 10, 2019, https://www.nycxdesign.com/presskit/.

[3] Press Release, *Mayor DeBlasio Launches Retrofit Accelerator, Providing Key Support for Buildings to Go Green as NYC Works Toward 80x50*, OFFICE OF THE MAYOR OF NEW YORK CITY, Sept. 28, 2015, https://www1.nyc.gov/office-of-the-mayor/news/651-15/mayor-de-blasio-launches-retrofit-accelerator-providing-key-support-buildings-go-green-as. The NYC Carbon Challenge for Universities, Office of the Mayor of New York City, https://www1.nyc.gov/html/gbee/html/challenge/universities.shtml.

[4] Announcement, *Open House New York: The Future of Waste in New York*, SVA Theater, Feb. 21, 2017, https://svatheatre.com/events/open-house-new-york-the-future-of-waste-in-new-york/.

Our commitment to a more sustainable New York does not stop there: In 2015, SVA broke ground on a brand new residence hall for the college on First Avenue. The 150,000 square foot building accommodates over 500 students, provides indoor and outdoor exhibition spaces, and is home to an environmentally-friendly landscaped roof garden. The College's physical plant encompasses almost 1,000,000 square feet in 18 buildings both owned and rented. SVA pays over $9,600,000, in New York City real estate taxes, over $500,000 in commercial rent tax and over $2,000,000 in city and state sales taxes. During the last two academic years, we have awarded over $41,000,000 in grants and scholarships to our students.

Unlike some of our competitors, we do not receive any direct public assistance (capital funding, economic development, or state/federal aid to support our educational activities). Investment is made into the College – whether it is upgrading classrooms, or building a dorm. On average annually, we invest $12,000,000 improving our current physical footprint, updating technology, and upgrading classrooms. SVA is an economic driver in NYC. Our students, employees, and individuals attending art shows, galas, or events contribute to the overall economy above and beyond the impact of the college alone.

In conclusion, the School of Visual Arts has been a committed member of the New York City community for over seven decades. We work hard to provide our students with an excellent education in the arts and to make our world a better place. Our institution is committed to the ideals of transparency, creative citizenship, diversity and inclusion, and integrity.

Requiring SVA to comply with the proposed rules without also compelling our competitors to make the same erroneous disclosures will place SVA at a competitive disadvantage. Ultimately the regulation damage will hurt our students, our reputation, and our ability to thrive in NYC.

Thank you for the opportunity to testify here today and I strongly urge you to reconsider the proposed regulations and exempt institutions that have degree-granting authority from the New York State Board of Regents from the regulations and oversight of NYC DCA.

Public Hearing
Thursday, April 4, 2019
10 a.m.
NYC Department of Consumer Affairs
42 Broadway 5th Floor
New York, NY 10004
Contact: Casey Adams

Oral Testimony by
David Rhodes, President
School of Visual Arts
209 East 23rd Street
New York, NY 10010

In response to
the Department of Consumer Affairs'
proposed new rules regarding
Deceptive Advertising by
For-Profit Educational Institutions

Good morning. My name is David Rhodes. I am the President of the School of Visual Arts, a proprietary college located in Manhattan offering 11 undergraduate and 22 graduate programs. SVA will celebrate its 75th anniversary in 2022. The college has a national and international reputation and enrolls students from 46 states, 2 territories and 53 countries. SVA's graduates are often leaders in their chosen fields. The College is a vibrant part of New York City's artistic and design community.

In addition to my leadership role at SVA, I serve as the Vice Chair of the New York State Board of Regents Advisory Council. I served as a Commissioner for the Middle States Commission on Higher Education from 2003 to 2007 and again from 2010 to 2016 and have chaired or served on 25 evaluation teams for Middle States, the National Association of Schools of Art and Design (NASAD) and the New York State Department of Education (NYSED)

As an experienced evaluator, I can tell you that the regulations proposed by the Department of Consumer Affairs are an outstanding example of bad regulation. In fact, if adopted, these regulations would provide those who are abusing students with a safe harbor, an unintended consequence, I hope. DCA should follow its own recommendations on pages 17 and 18 of its February 2019 report on student debt and leave these regulatory matters to the State.

A prime example of bad regulation is the proposed graduation rate. NYC DCA asserts that:

> "Graduation rate" means the number of students who received certificates, diplomas, or degrees in the program during the latest two calendar years, divided by the number of students who enrolled in the program during the latest two calendar years.

What is proposed is not a graduation rate as that term is understood in the higher education community. SVA's most recent graduation rate for first time in college students is 72%. It is 80.6% for transfer students. The combined graduation rate is 75%. Using DCA's definition, SVA would be required to report a graduation rate of 22.4%. The DCA mandated rate is false, misleading, irrational and capricious. By perverting the meaning of "graduation rate", DCA has established that it is not a competent authority in the field of higher education regulation. Therefore, the regulations should be withdrawn. If DCA wants to contribute to the regulatory environment in New York City, it should spend it resources closing down the many unlicensed schools that do prey upon New Yorkers.

I would be happy to meet with DCA staff to suggest how to identify miscreants and prepare appropriate regulations to address real problems.

Thank you.

April 4, 2019

Commissioner Lorelei Salas
NYC Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

Via: cadams@dca.nyc.gov

Dear Commissioner Salas,

DeVry College of New York is a degree-granting higher education institution serving nearly 1,500 New York students across three campus locations and online. I am writing to provide the Department of Consumer Affairs (Department) with our position and insights regarding DCA Proposed Rules “to prohibit deceptive trade practices by for-profit schools that are not licensed by the New York State Education Department or accredited by the New York State Board of Regents.”

Founded in 1931, our mission is to foster student learning through high-quality, career-oriented education integrating technology, science, business and the arts, which we pursue via practitioner-oriented undergraduate and graduate programs. More than 7,000 DeVry University alumni currently reside in New York.

We are writing to request clarification and/or modification of the applicability of the proposed rules. The Department’s stated purpose of the proposed rules is to address problems experienced by consumers when enrolling in schools “not already regulated by the state.” It is unclear, then, why the proposed rules as written appear to apply to highly regulated institutions of higher education such as DeVry College of New York.

DeVry has permission to operate its academic programs in New York from the University of the State of New York Board of Regents, is registered with The State Education Department, and is regulated by the New York State Higher Education Services Corporation. Additionally, DeVry is regionally accredited by The Higher Learning Commission (HLC), and regulated by the US Department of Education.

These five bodies constitute a comprehensive regulatory oversight structure that is one of the strongest in the nation. As such, the assertion that DeVry College of New York is an “unregulated” institution of higher edition is patently false and is misleading to consumers.

DeVry has a long history of championing equitable and effective oversight of all higher education institutions. DeVry has taken a leadership role in fostering greater transparency and accountability by voluntarily adopting our own accountability standards in 2016, which we refer to collectively as our Student Commitments. An overview of these commitments is provided on the following page.

While there may be legitimate concerns regarding schools operating in New York City that are not already regulated by the State of New York, the proposed rules do not accurately reflect the current oversight structure that exists for DeVry College of New York. The proposed rules are redundant, and will only harm New York students. We urge the Department to revise the proposed rules to ensure they do not apply to schools already regulated in a manner such as DeVry College of New York.

New York City has an enduring history of working with stakeholders to craft policy that is reasonable, fair and effective. We look forward to the opportunity to continue working closely with you in the future. Should you have any questions or concerns please do not hesitate to contact me at 212.312.4402 or at astanziani@devry.edu if I may be of further assistance.

Sincerely,

Anthony A. Stanziani
Group President, Northeast

DeVry University Student Commitments

1. **Informed Student Choice**:

    We provide all prospective students with a disclosure containing key information about program performance, such as total cost, debt and default rates, as well as completion and graduation rates.

2. **Responsible Recruitment and Enrollment**:

    We provide individualized financial and academic advising to all prospective students, and discus with them any questions or concerns before making any financial commitment.

    We record all admissions conversations, and have a process to evaluate a subset to ensure compliance and clear student communication.

    We publically report our use of revenues for marketing, instruction and academic support, student services and scholarships.

3. **Responsible Participation in the Federal Loan Process**:

    We have committed to derive no more than 85% of our revenue from federal funds, which includes military and VA funding. This exceeds the existing “90/10” federal requirement, which does not include military or VA funding in the federal portion.

    Before implementing new academic programs, we review the planned program’s pricing and expected career outcomes to ensure alignment with the student’s ability to repay debt upon successful completion of the program.

4. **Financial Literacy and Academic Transparency:**

    We provide each student with an annual Borrower Advisory Notice, which contains a detailed outline of the student’s borrowing and repayment obligations.

    We provide students with clear information and assistance throughout their educational experience regarding their progress and financial investment towards their academic goals.

    We provide all students with access to Manage My Loans, a dynamic online tool that gives students ongoing visibility into overall program progression, outstanding loan balance (including estimated repayment obligations), financial position compared to academic progress, and credits required to graduate.

5. **Improving Student Satisfaction:**

Our enrollment agreements do not require students to arbitrate disputes with us, nor do we prohibit students from participating in or seeking class action remedies.

We maintain clear and transparent student complaint resolution policies readily available to students via DeVry's website and academic catalog or student handbook.

We provide students with an escalation pathway and contact information to state oversight bodies with jurisdiction over student consumer complaints.

6. **Successful Student Outcomes and Accountability:**

We identify and proactively engage with students who may be at risk for program completion. One example of our dedication to student outcomes is our partnership with Civitas Learning to implement a tool called Inspire. The tool uses algorithms based on student success predictors to provide faculty and Student Support Advisors with course-level engagement information for each individual student to identify underperforming students at risk of failing a particular course.

DeVry Student Support Advisors target proactive outreach to at-risk students at the right time with personalized advising strategies that take into account student-specific insights from Inspire, such as student background, course information, warning flags and outreach history.

An independent third party reviewed and confirmed DeVry's adherence to these commitments to our students in 2017 and 2018, demonstrating DeVry's commitment to student outcomes, transparency and accountability.[1]

[1]https://www.adtalem.com/content/dam/atge/www_adtalem_com/documents/newsroom/18.12.20%20Adtalem%20Commitments%20Report.pdf Please note DeVry is included with other Adtalem schools on this report, since it was published before our recent ownership transition. Moving forward, DeVry University will report independently.

April 4, 2019

Submitted via NYC Rules Website

Mr. Casey Adams
Director of City Legislative Affairs
New York City Department of Consumer Affairs
42 Broadway, 8th Floor
New York, NY 10004

Re: Comments on Proposed Amendments to Part 5 of Subchapter A of Chapter 5 of Title 6 of the Rules of the City of New York

Dear Mr. Adams:

Strayer University and Capella University (the "Universities") submit the following comments in response to New York City Department of Consumer Affairs' ("DCA") invitation to comment on proposed amendments to Part 5 of Subchapter A of Chapter 5 of Title 6 of the Rules of the City of New York, entitled "Deceptive Advertising by For-Profit Educational Institutions" (the "Proposed Rules").

Background

Capella University

Capella University, established in 1993, has built its reputation on delivering high quality, online graduate-focused programs to working adults. Approximately 70% of Capella's students are currently enrolled in master's- or doctoral-level degree programs in business, counseling, education, health care, information technology, nursing, psychology, public administration, public health, public safety, and social work, among others. Capella also offers bachelor's-level programs in areas such as business, information technology, nursing, psychology, and public safety.

Innovation has always been at the core of Capella's history and contribution to higher education. Expertise in competency-based education enabled Capella in 2013 to become the first institution approved by the Department of Education to award Title IV aid to eligible bachelor's- and master's-level degrees based on the direct assessment of learning, rather than the traditional model built around the time-based credit hour. Capella's FlexPath direct assessment programs offer the potential to significantly reduce the cost of a degree and accelerate the time required for degree completion.

Capella University currently offers 53 undergraduate and graduate degree programs with 138 specializations and more than 2,100 courses. Capella enrolls approximately 38,000 students, representing all 50 states and 54 other countries. Capella is accredited by the Higher Learning Commission and is based in Minneapolis, Minnesota.

Strayer University

Since its founding in 1892, Strayer University has prepared working adults with the skills they need to succeed in a modern economy. Today, Strayer serves approximately 47,000 students at more than 70 campuses in 15 states and Washington, D.C. Students are offered rigorous and relevant undergraduate and graduate degree programs in business administration, accounting, information systems, information technology, human resource management, education, health services administration, public administration, management, and criminal justice.

Strayer serves the rapidly growing population of so-called "nontraditional" students who comprise the majority of postsecondary students today. The median age of students is 34, approximately two-thirds are female and approximately 75% are people of color. More than half are pursuing business administration degrees and more than half are taking classes entirely online.

Strayer University is also taking steps to improve college affordability, student engagement, and workforce readiness through innovative programs such as the Graduation Fund (which offers bachelor's students one no-cost course for every three courses they successfully complete), Strayer Studios (an in-house documentary film team that translates classroom lessons into engaging videos), and Degrees@Work (a partnership with employers to offer employees a no- cost degree).

Strayer is accredited by the Middle States Commission on Higher Education and based in Washington, D.C.

Oversight and Regulation of the Universities

The Universities are both subject to the direct oversight and regulation of numerous federal and state agencies, as well as regional and specialized accreditors. Both Universities are federally regulated by the United States Department of Education, and subject to various other federal compliance measures including the consumer protection regulations of the Federal Trade Commission. The Universities are each regulated not only by their respective home state authorities (Strayer University through the District of Columbia Office of the State Superintendent of Education and Capella University through the Minnesota Office of Higher Education), but also by the multiple state regulators where the universities operate physical campuses. Through their registration with their home-state authorities, the Universities are permitted to provide distance education to students in the 49 U.S. states that participate in the legislatively approved state authorization reciprocity agreement administered through the National Council for State Authorization Reciprocity Agreements ("NC-SARA"). The State of New York is an NC-SARA member, hence both Universities are authorized to operate in New York. *See* N.Y. Comp. Codes R. & Regs. Tit 8, § 49-2.1 (2016).

Both Universities are accredited by and subject to oversight from regional accreditors recognized by the United States Department of Education. The Middle States Commission on Higher Education accredits Strayer University and the Higher Learning Commission accredits Capella University. A variety of programs at the Universities are also subject to review and approval by specialized accreditors, which operate to ensure that students receive an education that is consistent with standards for entry into practice or advanced practice in their field of study.

Comments on the Proposed Rules

Section (b) of the Proposed Rules

Omission of Material Facts

Section (b)(17) of the Proposed Rules prohibits a school's failure "to disclose . . . any fact . . . which is material to *the student's* decision to enroll in, or continue to attend, the school." (emphasis added.) While the Universities agree that all schools should fully disclose material facts about their programs and offerings, the Proposed Rule places an undue burden on schools to know every fact material to each and every student. Given the wide diversity of priorities, interests, and goals that every student brings to his or her higher education, we recommend that the DCA modify Section (b)(17) to reflect the commonly applied standard for determining material omissions in advertising, which assesses whether the omission is likely to mislead a "reasonable consumer."

Section (c) of the Proposed Rules

Adoption of Rigorous Admissions Policies

Section (c)(4) of the Proposed Rules prohibits schools from admitting students that it "knows, or should know" are unlikely to graduate or become employed in their field of study. The Universities believe in admitting students who have met objective admissions requirements aligned to the academic requirements of their programs. However, even with thorough academic support, some students cannot or choose not to finish their studies. Section (c)(4) is ambiguous in mandating that schools "should know" which applicant is likely to succeed in his or her studies and in obtaining employment. Further, it asks schools to predict whether a prospective student's disability will prevent him or her from being hired, an analysis most schools are ill-equipped to perform. We recommend that the DCA delete Section (c)(4) and replace it with a requirement that schools adopt legally compliant, consistently applied admissions policies requiring all students to have met minimum academic requirements before enrolling.

Persistent Telephone Messaging

Section (c)(6) of the Proposed Rules limits certain types of telephone communications to no more than two messages in a seven-day period. The Universities recommend that the DCA modify Section (c)(6) to exempt from the two-message limit those communications that are responsive to specific requests for information from the prospective student. Without such an exemption, Section (c)(6) counteracts the DCA's requirements of full disclosure about a school's programs by placing limits on the responsiveness of the school. In addition, in light of the nationwide distribution of New York City area codes associated with mobile phone customers who no longer live in the city, the Universities recommend that Section (c)(3) be clarified to be applicable only to phone numbers associated with prospective students who have told the school that they live in New York City.

Use of the Terms "Advisors" and "Counselors"

Section (c)(7) of the Proposed Rules prohibits the terms "advisors" and "counselors" being applied to individuals whose "primary role . . . is to . . . enroll students in the school." While the Universities agree that school staff should have titles that accurately reflect the roles they play with respect to students, it is important to note that schools are responsible for providing critical enrollment-related advising and counseling services to prospective students. Schools acting responsibly retain personnel who provide trustworthy guidance about whether the school's academic offerings are appropriate for students' needs. The Universities suggest that the DCA revise Section (c)(7) to require schools disclose which functions that an individual with a title "advisor" or "counselor" supports. Personnel providing academic guidance should be called "academic counselor," enrollment guidance "enrollment counselor," career guidance "career counselor," and so on.

<u>Section (d) of the Proposed Rules</u>

Confining Disclosure Data Sets to Residents of New York City

Section (d) of the Proposed Rules requires disclosure of data based on the graduation rates, graduate placement rates, total placement rates, median times to program completion, and median cumulative debt of *all* students in the program. We believe that, as drafted, Section (d) is duplicative of federal disclosures already made by the Universities, and that Section (d) could be strengthened to provide data that is more relevant to consumers in New York City.

As Title IV institutions, the Universities are subject to a variety of federal authorities requiring aggregate disclosures about their programs and student bodies. *See generally* 20 U.S.C. § 1092(a), 34 C.F.R. §§ 668.41, 668.43. In addition, the Universities comply with the reporting requirements of the Integrated Postsecondary Education Data Systems ("IPEDS"), a research and reporting arm of the U.S. Department of Education. *See* 20 U.S.C. § 1094 (a)(17), 34 C.F.R. §§ 668.14(b)(19). Through these statutes and regulations, we make available to each incoming and currently enrolled student aggregated information about total program cost, completion rates, retention rates, graduation rates, placement rates, program length, debt loads experienced by our students and alumni, as well as additional information well beyond the scope of the disclosures in the Proposed Rules. This information is provided on the Universities' websites, is published by IPEDS on its website, and is used to power the College Scorecard and College Navigator websites published by the U.S. Department of Education.

All New York City residents can access these information sources. However, because we prepare and provide the data published on those websites in the aggregate, they reflect our wide geographical footprint and do not address the particularities of the New York City market. We believe that the data most relevant to residents and consumers of New York City, and most helpful to their decision to enroll, is data that reflects the performance of other students and alumni who pursued higher education while living in New York City. The city's cost of living and job demand are likely to affect students' decisions to take on educational debt and influence the results of their job search after graduation. We believe that the disclosures in Section (d) of the Proposed Rules should reflect the considerations unique to living in New York City, and should be based on data that reflects the experiences of New York City residents.

The Universities suggest that the DCA modify the scope of the disclosure requirements of Section (d) to be based only on the performance of those students who are residents of New York City at the time of their enrollment.

Suppressing Disclosures When Risk of Identifying Individuals is Present

The Universities are committed to maintaining the privacy of their students. In some circumstances, the number of students who are enrolled in a particular educational program is low. This is especially true with schools like Capella University, which offers advanced degrees in specialized fields of study that may enroll only a handful of students nationally, and even fewer in New York City. Under those circumstances, any disclosure would enable the general public to infer private and sensitive information about a single individual, including that person's educational debt and aspects of his or her academic performance. As currently drafted, Section (d) of the Proposed Rules will place some schools in the untenable position of choosing between complying with the DCA's mandated disclosures or protecting sensitive personal information of its students.

With this in mind, the Universities respectfully suggest that the DCA adopt a minimum n-size of at least 10 students in a program, which is consistent with the current n-size requirements in the existing Gainful Employment regulations, before the program is subject to required disclosures under Section (d) of the Proposed Rules. The Universities believe that this threshold will sufficiently protect the privacy of those individuals whose data forms the basis of the reporting.

We are grateful for this opportunity to comment on the Proposed Rules, and we hope the DCA will consider these recommendations. We look forward to the opportunity to be a resource on these and other topics.

Respectfully submitted,

Richard Senese, PhD
President
Capella University

Brian Jones, J.D.
President
Strayer University

Institute of
Culinary Education
EST. 1975

April 1, 2019

VIA ELECTRONIC MAIL

Casey Adams
Director of City Legislative Affairs
New York City Department of Consumers Affairs
42 Broadway, 8th Floor
New York, NY 10004

Re: Comments on Proposed Rules
Part 5 of Subchapter A of Chapter 5 of
Title 6 of the Rules of the City of New York
New Section 5-52
For-Profit Schools

Dear Director Adams:

I write to you as President of the Institute of Culinary Education (ICE), a prominent institution of higher education located in lower Manhattan that offers training in Culinary and Pastry Arts and Restaurant and Hospitality Management to diverse populations to the benefit of our impressive graduates and the entire New York City restaurant community.

By way of introduction, allow me to give context to the integrity of our school:

ICE's independently verified placement rate is 82%.
Our U.S. Department of Education reported graduation rate is 81%
Our U.S. Department of Education reported loan default rate is 5.4%

Clearly, there is strength in our programming as substantiated by these successes so it is from that perspective of demonstrated accountability that I must comment on the Proposed Rules entitled "For-Profit Schools" which are designed to "prohibit deceptive trade practices by for-profit schools that are not licensed by the New York State Education Department or accredited by the New York State Board of Regents."

As an institution of higher education licensed by the New York State Department of Education, Bureau of Proprietary School Supervision, accredited by a recognized national accreditor - - the Accrediting Commission of Career Schools and Colleges - - and regulated by the U.S. Department of Education, we at ICE believe we are uniquely qualified to provide perspective to the issues presented and the proposed regulations.

General Intent

The Statement of Basis and Purpose of the Proposed Rules assert that "some unregulated" for-profit schools engage in a "pattern of deceit when dealing with potential students" and "can mislead consumers" about a vast array of relevant components to an educational experience. Thus, the Statement continues, the Department seeks to promulgate rules to ensure that "these unregulated for-profit schools operate fairly and honestly, and utilize business practices that are not deceptive". Through our comments, ICE hopes to alert the Department to some potential unintended consequences of the regulations as proposed, which may threaten the continued success of quality institutions such as our own.

Definitions

"For-Profit School"

We read the definition of "for-profit schools" (to which the regulations are intended to apply) to mean, in general terms, a for-profit institution which is authorized to confer degrees in NY State and which is accredited by an accrediting body other than the New York State Board of Regents. We are confused, then, why the regulations contain internal references to Article 101 of the Education Law (§5001 et seq) which governs the licensure of non-degree conferring institutions. We are concerned that such references are misplaced and suggest that institutions licensed to operate career schools in New York through the Bureau of Proprietary School Supervision would, in fact, be subject to the proposed regulations. To avoid unnecessary misapplication of the proposed regulations, we suggest that the regulations be revised to reference the laws and regulations governing degree-conferring institutions, exclusively.

"For-Profit Institution"

We are also troubled by the definition of "for-profit institution" which includes any corporation, partnership, and like corporate constructs that is "organized" as a profit school. We are confused as to the intended use of the terms "institution" and "school" as both terms appear unrelated. Moreover, select regulations appear to apply to a "for-profit institution" (§5-52(b)), without reference to any "for-profit school operation" perhaps unintentionally subjecting all for-profit institutions to the proposed regulatory scheme regardless of whether such an institution operates a higher education program or school. We would suggest the definition be further refined to avoid confusion in application or enforcement.

Other Considerations

As shared earlier, as a licensed career school, ICE's governance and its operations are dictated by rigorous standards and protocols imposed and monitored by the NY State Education Department Bureau of Proprietary School Supervision. We respectfully request that the City Department give due consideration to recognizing the State Education Department's preemptive presence in the regulation of for-profit schools and avoid creation of a patch-work quilt of regulations and policies which invite noncompliance through their complexity.

We, at ICE, appreciate the opportunity to share our concerns on this important issue and appreciate the thoughtful consideration of the comments.

Very truly yours,

Richard Smilow

Richard Smilow, President and CEO

Berkeley College®

OFFICE OF THE PRESIDENT

April 4, 2019

Mr. Casey Adams
Director of City Legislative Affairs
New York City Department of Consumer and Worker Protection
42 Broadway, 8th Floor
New York, NY 10004

Re: Comments on Proposed Rules Related to For-Profit Schools

Dear Mr. Adams,

Good morning. I am Michael Smith, President of Berkeley College.

I am here today on behalf of Berkeley College, to express our opposition to the rules proposed by the New York City Department of Consumer and Worker Protection (DCWP, formerly the Department of Consumer Affairs).

Berkeley College has been educating students in New York City for 83 years. Our graduates and students contribute to the vitality of New York City and New York State. In the 2018 – 2019 academic year, there are more than 2,500 students enrolled at Berkeley College's New York City campuses. Every student has a name, a family, a dream. We are your neighbors. We are the police officers, bankers, health care professionals, business leaders, city employees, and more. Our mission of educating students to succeed professionally and in life empowers Berkeley College students to achieve lifelong success in dynamic careers.

We are proud of our students and alumni who contribute to the rich diversity and vitality of New York City, including the more than 400 Berkeley College graduates who serve as public employees in various agencies in the City of New York. Berkeley College graduates are employed by the New York City Police Department, Housing Authority, Board of Education, Criminal Justice Agency, Department of Buildings, Department of Correction, Department of Education, Department of Finance, Department of Small Business, Department of Health and Hospitals, and at other City agencies.

Like many colleges in New York, we are regulated by the U.S. Department of Education, regionally accredited by the Middle States Commission on Higher Education, and authorized by the New York State Board of Regents to confer degrees.

3 East 43rd Street • New York, NY 10017 • 212-986-4343 x5129 • Fax 212-986-8901 • MJ@BerkeleyCollege.edu

Berkeley College concurs with the points raised in the Association of Proprietary College's testimony presented today. The proposed rules unfairly target less than 10 percent of the more than 100 bachelor degree-granting colleges and universities that operate in New York City.

We share the DCWP's interests regarding national student debt and desire to work jointly toward solutions to minimizing student debt and loan defaults among all students. Let's join State and federal education agencies, financial institutions, lawmakers and other relevant stakeholders to address the nationwide problem pertaining to student debt and loan default rates.

An inclusive, collaborative process with all of New York City's colleges, the Mayor's office, State and federal education agencies, business organizations, K-12 educators, students, parents, and other stakeholders, rather than a set of rules narrowly aimed at one sector, would ensure a transparent process that addresses tuition, cost and outcomes, at all postsecondary institutions.

I thank the New York City Department of Consumer and Worker Protection for the opportunity to express Berkeley College's concerns with the proposed rules.

Respectfully submitted,

Michael J. Smith

Michael J. Smith
President
Berkeley College

Legal Services NYC
DEMAND JUSTICE

April 4, 2019

Commissioner Lorelei Salas
Casey Adams,
Director of City Legislative Affairs,
New York City Department of Consumer Affairs,
42 Broadway, 8th Floor
New York, NY 10004

Via: http://rules.cityofnewyork.us

Re: Comments on Proposed Rules to prohibit deceptive trade practices by for-profit schools.

Dear Commissioner Salas and Casey Adams,

Summary

Legal Services NYC submits these comments regarding the Department's efforts to regulate for-profit, degree granting schools that operate within the five boroughs. Prohibiting these schools from lying about employment rates, prospective salaries, costs, and the availability of seats is valuable, especially given the Department's broad powers to shut-down businesses that deceive New Yorkers. However, Legal Services NYC believes the disclosure requirements are weak, easily gamed, and counterproductive. Few if any students given the required disclosure will think twice about enrolling. Moreover, schools that deceive students will point to the disclosure and falsely claim students chose their school knowing its positives and negatives.

Legal Services NYC believes that consumers would be less prone to abuse by unscrupulous for-profit schools if the Department adopted a different disclosure that cannot be gamed and which focuses on outcomes and instruction. We suggest it consist of three parts and disclose:

1. The percentage of students earning less than a high school graduate ($28,000) six years after leaving the school.

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2. The percentage of students unable to pay down their student loan debt due to low wages and high debt five years after leaving the school. Paying down means reducing the principal owed on the debt by $1.00 a month.

3. How much of a tuition dollar goes to instruction.

The U.S. Department of Education provides data that answers all of these questions. (Available at https://collegescorecard.ed.gov/data/). To give the disclosure meaning, side-by-side averages of similar, public schools should be presented. This enables comparison shopping.

Who We Are

Legal Services NYC (LSNYC) is the largest civil legal services provider in the country with offices in the Bronx, Brooklyn, Queens, Staten Island and Manhattan. For 50 years, LSNYC has provided critical legal help to low-income residents of New York City. Our organization works to reduce poverty by challenging systemic injustice and helping clients meet basic needs for housing, access to high-quality education, health care, family stability, and income and economic security.

In the student loan context, LSNYC represents low-income New Yorkers who have defaulted on or are having trouble repaying their student loans. In the last six years, we have sued two student loan servicers, one who withheld information regarding how to get out of default to maximize its profit, and another who bombarded our client with collection calls. We have participated in two negotiated rulemakings to police predatory for-profit schools and to craft repayment plans for student loan borrowers struggling with debt. We have trained dozens of pro bono lawyers in New York City to help student loan borrowers.

We have eliminated hundreds of loans by filing discharge applications due to For-Profit malfeasance or the disability of the borrower. We have guided hundreds of borrowers into affordable repayment plans. And we have sued federal agencies for failing to provide due process when offsetting Social Security payments of disabled persons who owe student loan debts.

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The For-Profit Education Problem

Every few weeks, a new story arises in which low-income students are left with mountains of debt and few skills by a for-profit college.[1] This spurs arguments by for-profit advocates that the malfeasance was isolated, the product of a few bad actors. However, numerous studies and law suits disprove such spin.[2] The majority of for-profit students (73%) earn less than a high school graduate ($28,000 per year) ten years after leaving their for-profit school.[3] Tuition at for-profits is high. For example, a medical assistant degree at the Brooklyn for-profit, ASA College, costs $28,000 as compared to $2,200 at Kingsborough Community College.[4]

Low earnings and high debt result in a life-time of repayment for for-profit students. Indeed, two out of three students who attend for-profits in New York are earning so little that they are unable to pay down their debts, meaning that their debts are *growing* despite monthly payments. This is not the case at public and private non-profit

[1] A sample of recent For-Profits news follows: Former Seattle student suing feds over student debt from deceptive for-profit school, Asia Fields, *Seattle Times*, 11.28.18; Students At For-Profit Colleges Are More Vulnerable To Student Loan Distress, NYC Report Finds, Diana Hembree, *Forbes*, 11.30.18 ; National for-profit college chain abruptly closes, stunning thousands of students
Joel Shannon, *USA Today*, 12.5.18; 'I feel like I wasted my good time here': Local for-profit school closes, leaves students scrambling [VIDEO], *ABC News Richmond VA*, 12.5.18; This For-Profit College Chain Is Leaving Students With Lots of Debt and No Degrees, Joshua Alvarez, *Washington Monthly*, 12.11.18; VA Inspector General Cites Poor Oversight of College Programs Approved for GI Benefits, Ashley Smith, *Inside Higher Ed*, 1.21.19

[2] Tom Hilliard, Center for an Urban Future, *Keeping New York's For Profits on Track*, (April, 2018), available at https://nycfuture.org/research/keeping-new-yorks-for-profit-colleges-on-track ; Yan Cao, The Century Foundation, *Grading New York's Colleges*, at 6 (March 23, 2018) available at https://tcf.org/content/report/grading-new-yorks-colleges/; U.S. Senate Committees on Health, Education, Labor, and Pensions, *For-Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success,* at 590 (2012), available at https://www.help.senate.gov/imo/media/for_profit_report/PartII/Lincoln.pdf; Dvorkin, Bowles, Shaviro, , Center for an Urban Future, *Deeper in Debt: For-Profit Schools Driving Student Loan Defaults in New York State Keeping New York's For Profits on Track*, (Dec., 2018), available at https://nycfuture.org/pdf/CUF_Deeper_in_Debt_Student_Loan_Default_Data_Brief.pdf

[3] Hilliard, supra n. 2.

[4] College catalogues with 2018 tuition schedule available with author.

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education institutions, where 70% and 58%, respectively, are paying down their debts. And those who ignore their debts pay dearly. Each spring, the U.S. Department of Education intercepts more than $2 billion in tax refunds owed to workers with defaulted student loans. [5]

For Profit Schools Covered by the Proposed Rule

Fourteen for-profits that grant degrees and operate within New York City would be covered by this rule. These schools enroll over 25,000 students and include seven large institutions (Mildred Elley, Monroe, ASA, Berkeley, DeVry, the School of Visual Arts, and LIM College).

A Stronger Disclosure Is Needed

The proposed rule requires a school to disclose total program cost, graduation rate, graduation job placement rates, median time for program completion, and medium debt.

Our experience with students who attend for-profits is that they often are sold on the promise of a better future well before signing an enrollment agreement, at which the proposed disclosure statement would be presented. Consequently, a disclosure statement really needs to shock a prospective student about the danger of enrolling (if that is the case.) Completion rates and average cost and debt are not going to challenge those assumptions. Indeed, many prospective students think a pricy education means a better education. Completion rates are overlooked because students believe their moxie will allow them to succeed even where others have failed.

Nor will job placement rates influence behavior. This is largely because lying about job placement is easy and hard for regulators to detect. Given their profit-motive and need to recruit new students, most schools will purport to disclose high employment rates for their graduates, some of which will simply be false or inflated. For example, the Art

[5] GAO- 17-45, *Social Security Offsets: Improvements to Program Design Could Better Assist Older Student Loan Borrowers with Obtaining Permanent Relief*, p.18 (December 2016), available at https://www.gao.gov/assets/690/681722.pdf.

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Institute of New York lied about its job placement rates.[i6] While it was eventually put out of business following protracted litigation (2007-2015), it fleeced tens of thousands of student who remain liable for their loans, including more than 1,800 students in New York City.[7]

Required Disclosures Should Focus on Outcomes that cannot be Gamed or Distorted.

A more effective disclosure requirement would employ three metrics:

1. What percentage of students are earning less than a high school graduate six years after leaving the for-profit institution.

2. What percent of students are unable to make progress on paying down their student loan debt five years after leaving the for-profit.

3. How many cents out of each tuition dollar goes to instruction.

Furthermore, disclosures without comparison information will not be effective. Because deceit within the for-profit sector is rampant and well-documented, such a comparison should be with public schools that serve similar populations in New York City (the CUNY and SUNY schools located within the five boroughs.)

Finally, as a point of illustration, included below are sample disclosures involving four for-profits within New York City that have reputations as being particularly good or particularly bad. You can see that the disclosures highlight those differences.

6 False Claim Act suit filed in 2007 is unsealed and served in 2011. *United States ex rel. Washington et al. v. Education Management Corp. et al., Civil No. 07-461 (W.D. Pa.)*. https://www.justice.gov/opa/pr/us-files-complaint-against-education-management-corp-alleging-false-claims-act-violations.

7 The case settled eight years later in 2015. https://ag.ny.gov/press-release/ag-schneiderman-announces-1028-million-settlement-edmc-forgive-student-loans-and.

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Percent of former students earning less than a high school graduate
Six Years after leaving college

ASA College:	71%
Berkeley College:	55%
LIM College:	26%
St. Paul's School of Nursing:	17.5%
CUNY's and SUNY's:	41%

Former Students Unable to pay their loans Five Years after Leaving the For-Profit

ASA College:	76%.
Berkeley:	60%:
LIM:	36%:
St. Paul's School of Nursing:	30%
CUNY's and SUNY's:	44%.

Tuition dollar towards instruction (instruction/tuition)

ASA College:	34 cents: ($5,267 / $15,285)
Berkeley College:	30 cents ($5,598 / $18,607)
LIM College:	17 cents: $4,442 / $25,495)
St. Paul's School of Nursing:	52 cents: ($15,139 / $ 29,110)
CUNY's and SUNY's:	$3.13: ($18,500 / $5,897).

Conclusion

The disclosure statement, if not carefully crafted, could undercut the important goal the Department seeks: protecting New Yorkers from for-profit schools who leave students with few skills with which to pay large debts. Disclosing earnings and repayment rates may shock a prospective student to consider other schools with better outcomes, and thereby better serve the communities within New York City who have been long victimized by unscrupulous for-profit schools.

For further information, contact Johnson M. Tyler at 718-237-5548 or jtyler@lsnyc.org

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April 30, 2019

Commissioner Lorelei Salas
Casey Adams,
Director of City Legislative Affairs,
New York City Department of Consumer Affairs,
42 Broadway, 8th Floor
New York, NY 10004

Via email: ASchwenk@dca.nyc.gov

Re: Additional Comments on Proposed Rules to prohibit deceptive trade practices by for-profit schools.

Dear Commissioner Salas and Casey Adams,

I received an email from attorney Andrew Schwenk of the DCA asking for additional information on my April 4, 2019 comments. Specifically, he asked where I obtained the data reported on page six of my comments that I suggested the DCA require for-profits to disclose.

One data point concerns how many cents of a tuition dollar goes to instruction. As mentioned before, the information is available at https://collegescorecard.ed.gov/data/). Within that large zip file, one examines the 2016-2017 data set (which is the most recent information as of October 30, 2018). More specifically, cents of instruction to dollars of tuition is calculated as follows. Schools are required to report to the U.S. Department of Education both the average amount of money it spends on instruction per student and the average amount of income it receives from a student.[1] To get the cents of instruction per dollar of tuition that DCA should

[1] See "Institutional Revenues/Expenses" *Data Documentation for College Scorecard* at 8 (Version: October 30, 2018), available at https://collegescorecard.ed.gov/assets/FullDataDocumentation.pdf.

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require for-profits to disclose, I divided instructional expenditure by tuition revenue. These figures are located on the college scorecard fields entitled INEXPFTE and TUITFTE. For example, 2016/17 scorecard data shows ASA college spent $5,644 on instruction per student, while receiving $14,554 of tuition income per student. This translates into 38 cents of instruction for every dollar of tuition received ($5,644/$14,554 = .38).[2]

The second data point I suggest for-profits disclose is the percentage of students unable to pay down their student loan debt due to low wages and high debt five years after leaving the school. Paying down means reducing the principal owed on the debt by $1.00 a month. This is obtained in the same database as above by looking at the field entitled "RPY_5YR_RT."[3]

The third data point I suggest a for-profit disclose is the percentage of students earning less than a high school graduate ($28,000) six years after leaving the school. This is obtained in the same database, but under a different excel spread sheet included in the download that is entitled "2014-15." The field that contains this information is entitled "GT_28_6."[4] It measures the earnings of a student six years after a student first enters and institution. It thus counts both completers and non-completers.

Thank you for your interests in my comments.

For further information, contact Johnson M. Tyler at 718-237-5548 or jtyler@lsnyc.org

[2] My earlier examples in the April 4, 2019 comments used 2015/2016 scorecard data, and hence are slightly different.
[3] See "Repayment Rate on Federal Student Loans" *Data Documentation for College Scorecard* at 27.
[4] See "Threshold Earnings" *Data Documentation for College Scorecard* at 25.