

Congress of the United States
Washington, DC 20515

February 17, 2011

The Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

Re: Docket ID ED-2010-OPE-0012

Dear Secretary Duncan,

We commend the Department of Education on its efforts to ensure that our students continue to access quality, affordable education programs that will prepare them for today's career opportunities. The proposed "Gainful Employment" rule reflects the Department's commitment to excellence and accountability in higher education.

While many proprietary universities contribute to a robust higher education sector, we are gravely concerned that unscrupulous actors in the industry are limiting students' access to opportunity by leaving them with debt they cannot pay off and little hope for professional fulfillment. Available data indicate that too many students are not getting a return on their investment at some proprietary universities, and are instead finding themselves worse off when they leave these programs than when they began their course of study.

A Disturbing Pattern

On December 16, 2009, Representative Cummings wrote to then-Chairmen of the Oversight and Government Reform and Education and Labor Committees, Edolphus Towns and George Miller. Rep. Cummings requested that the Chairmen convene hearings to investigate reported abuses in the for-profit industry, including misconduct by admissions representatives and disproportionately high student loan default rates. His concern was that these practices were at best negligent and at worst predatory.

In 2009, proprietary institutions received \$24 billion in Title IV federal loan dollars and federal Pell Grant funds, which accounted for nearly ninety percent of the revenue of some of these schools.^[1] Even though students at for-profit schools represent only 10 percent of the higher

^[1] Senate staff calculation of data provided by U.S. Department of Education in *Emerging Risk? An Overview of Growth, Spending, Student Debt, and Unanswered Questions in For-Profit Higher Education*, Report by the Senate Committee on Health, Labor and Pensions, June 24, 2010, at <http://harkin.senate.gov/documents/pdf/4c23515814dca.pdf>; and Peter S. Goodman, *In Hard Times, Lured into Trade School and Debt*, New York Times, Mar. 13, 2010 at <http://www.nytimes.com/2010/03/14/business/14schools.html?pagewanted=1>.

education sector, last year, the industry received 25 percent of total federal loan dollars.^[2] The loan default rate among students at for-profit institutions is nearly double that of students attending public and private non-profit schools, and graduation rates are much lower at for-profit schools compared to those at public and private non-profit schools.

For those students who borrow, the costs are steep. In 2009, average tuition for a for-profit institution was \$14,000 per year, while average community college tuition was \$2,500 per year, and average in-state tuition at a public university was \$7,000 per year.^[3] Department of Education data show that 96 percent of students who graduated in 2008 from for-profit schools had taken out student loans, with 24 percent taking out more than \$40,000 in loans.^[4] Students at public and private non-profit schools on average borrow less often, and borrow in smaller amounts, than students at for-profit institutions.

Further, in August 2010, the findings of a General Accountability Office (GAO) undercover investigation of fifteen for-profit institutions reported to the Senate Health, Education, Labor and Pensions (HELP) Committee demonstrated that admissions staff at every proprietary institution GAO visited had made deceptive or otherwise questionable statements to undercover applicants. GAO testimony went on to document low graduation rates and high cohort default rates (CDR) at several of the schools considered in the study.^[5]

Most recently, the data released from your Department on February 4, 2011 show that the loan default rate amongst students at for-profits is steadily rising. The data show that 13.8 percent of all student loan borrowers defaulted within three years of entering repayment.^[6] However, the default rate among students at for-profit colleges hovers at 25 percent, up from 21 percent in 2009, and much higher than the average rate at private non-profit and public schools.^[7] Defaulters at for-profit schools now represent 48 percent of all student loan defaults.^[8]

^[2] Tamar Levin, *Low Loan Repayment is Seen at For-Profit Schools*, New York Times, Aug. 13, 2010 at <http://www.nytimes.com/2010/08/14/education/14college.html>.

^[3] *Emerging Risk? An Overview of Growth, Spending, Student Debt, and Unanswered Questions in For-Profit Higher Education* at 8-9, citing College Board, *Trends in College Pricing 2009*.

^[4] Id, citing Sandy Baum & Patricia Steele, *Who Borrows Most? Bachelor's Degree Recipients with High Levels of Student Debt*, College Board, at <http://advocacy.collegeboard.org/sites/default/files/Trends-Who-Borrows-Most-Brief.pdf>; and Patricia Steele and Sandy Baum, *How Much Are College Students Borrowing?*, College Board, at <http://professionals.collegeboard.com/profdownload/cb-policy-brief-college-stu-borrowing-aug-2009.pdf>

^[5] Testimony of Gregory D. Kutz, Managing Director Forensic Audits and Special Investigations, U.S. Government Accountability Office, *For Profit Colleges: Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices*, U.S. Senate Committee on Health, Education, Labor and Pensions, Aug. 4, 2010.

^[6] *For-Profit College Student Loan Default Rates Soar*, news release, The Project on Student Debt, Feb. 4, 2011 at http://projectonstudentdebt.org/files/pub/TICAS_3YR_CDR_NR.pdf.

^[7] Nick Anderson, *Default rate for repayment for for-profit college loans hits 25 percent*, Washington Post, Feb. 4, 2011 at <http://www.washingtonpost.com/wp-dyn/content/article/2011/02/04/AR2011020400015.html>.

^[8] *For-Profit College Student Loan Default Rates Soar* at note 6, supra.

Barriers to Success for Low-Income and Minority Students

Most troubling, perhaps, is the negative impact bad actors in the for-profit industry have on our most vulnerable student populations – low-income and minority students. A study published by Education Trust in November 2010 compared the abuses in the for-profit industry to the subprime lending crisis.^[9] This study came on the heels of June 2010 testimony by hedge fund manager Steven Eisman who testified in front of the Senate HELP Committee that he is shorting—betting against—shares of higher education companies because of the parallels he sees to the subprime loan market.^[10]

The resemblance to the subprime crisis is all too clear. Many of these schools are publicly traded companies which have expanded wildly in the past 10 years, with some estimates putting the industry's growth at 236 percent and, like the subprime crisis, those who stand to suffer the most harm are low-income and minority individuals.^[11]

In the 2008-2009 school year, 50 percent of students at for-profits were low-income individuals and 37 percent were minorities.^[12] This cohort is aggressively recruited by for-profits, and is more likely to take out federal and private loans to pay for their education and, as a result, more likely to carry the heaviest debt load, particularly when compared to their counterparts at public and private not-for-profit schools. Because these students generally take on the highest risk, they have the most to lose if they fail to graduate or fail to obtain employment that allows them to pay back their loans in a timely manner.

On February 3, 2011, the Leadership Conference on Civil and Human Rights wrote to your Department to emphasize that the proposed Gainful Employment rule stands to benefit students of color, low-income students, female students, and armed service members and veterans. Each of these groups is heavily enrolled in the for-profit industry and, unfortunately, many of them are being ill-served. While we are emphatically in favor of increasing access to opportunity through higher education, we believe that we owe it to our students to ensure that “access” means that students are entering a program that will truly prepare them to advance in their professional careers.

Getting a Return on Our Investment In the Future

The proprietary education industry has expanded aggressively in the past decade, and it is imperative that government oversight keeps pace with its growth. We believe strongly that the proposed Gainful Employment rule is an important step toward reigning in the practices of bad actors in the industry. We are proud of the substantial investments we make as a nation in our

^[9] Mamie Lynch, Jennifer Engle, and José L. Cruz, *Subprime Opportunity: The Unfulfilled Promise of For-Profit Colleges and Universities*, The Education Trust, Nov. 2010.

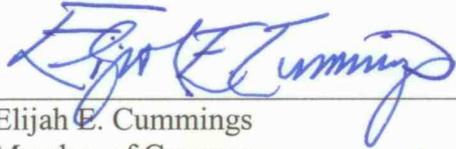
^[10] Testimony of Steven Eisman, *Emerging Risk? An Overview of the Federal Investment in For-Profit Education*, U.S. Senate Committee on Health, Education, Labor and Pensions, June 24, 2010.

^[11] Lynch at 1.

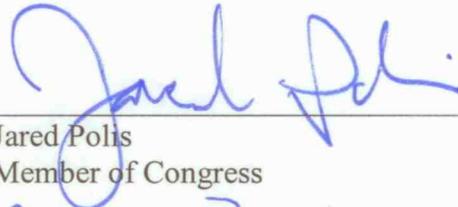
^[12] Id at note 9, supra.

young people, who are the living messages we send to a future we will never see. We therefore urge you to implement a strong rule that provides adequate oversight on the industry, and adequate protection to our students.

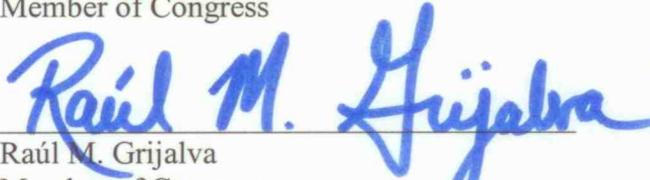
Sincerely,



Elijah E. Cummings
Member of Congress



Jared Polis
Member of Congress



Raúl M. Grijalva
Member of Congress



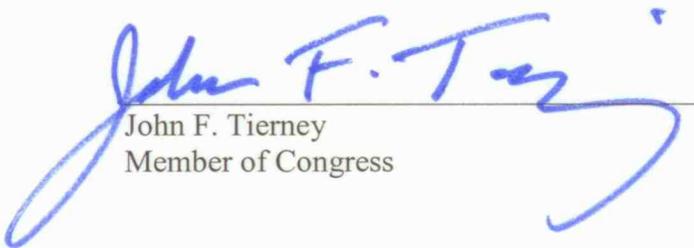
Michael M. Honda
Member of Congress



Keith Ellison
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Gwen Moore
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John F. Tierney
Member of Congress