The Honorable Arne Duncan
Secretary of Education
U.S. Department of Education
c/o Ashley Higgins
1990 K Street NW, Room 8037
Washington, DC 20006-8502

Re: Program Integrity: Gainful Employment
Docket ID ED-2-14-OPE-0039

Dear Secretary Duncan,

Americans for Financial Reform ("AFR") appreciates this opportunity to respond to the Department of Education's Request for Comment on the Secretary's proposal to amend the regulations on institutional eligibility under the Higher Education Act of 1965, as amended (HEA), and the Student Assistance General Provisions in order to establish measures for determining whether certain postsecondary educational programs prepare students for gainful employment in a recognized occupation, and the conditions under which such programs can remain eligible for Federal Student Aid under title IV of the HEA.

AFR is a coalition of more than 200 national, state, and local groups who have come together to advocate for reform of the financial industry. Members of AFR include consumer, civil rights, investor, retiree, community, labor, faith based, and business groups.

We strongly support the Department of Education's efforts to keep federal funds from being used to support career education companies that routinely fail to deliver on their promises, leaving students with unmanageable debt. We urge you to stand by the thrust of the regulations the Department proposed in March, and to bolster those regulations in several key ways.

Our interest in this question grows out of our commitment to protecting consumers and the financial marketplace against abusive and deceptive lending. When we look at the aggressive marketing of student loans by some career education companies, we see worrisome parallels with the practices and trends of the subprime-mortgage boom era. Once again, we are talking about complicated, one-time, high-stakes decisions, and about consumers who make those decisions based largely on information provided by people with a financial stake in convincing them to borrow heavily. Here, too, the process is abetted by rules that permit companies and salespeople to profit from the issuance of loans even when the foreseeable consequences for borrowers are going to be disastrous.

Since 1965, when the Higher Education Act first authorized the use of federal assistance for career education, such programs have multiplied many times over, both in absolute numbers and in the proportion of student-loan money they account for. The career education marketplace has also evolved in ways that have made it increasingly important for the Department to finally put teeth into the statutory requirement that aid be limited to programs that "prepare students for gainful employment in a recognized occupation."

Many of today's career-education programs are run by for-profit companies. Such programs were ineligible for federal aid under the original Higher Education Act; and even after the law was amended to include them, many of the programs that qualified were marketed to employers with a clear idea of the training they wanted for their workers, and with the means as well as motive to monitor the quality of that training. By contrast, today's programs are largely marketed to individuals, and disproportionately to minority students and/or people without the personal or family resources to insulate them against a bad outcome.

The results, as the DOE's research has abundantly documented, are often calamitous, leaving students with levels of debt that can hold them back for years. Students at for-profit colleges, who today represent about 13 percent of the total higher education population, account for nearly half of all federal loan defaults. In a majority of low-performing programs recently examined by the Department, graduates were earning less, on average, than high school dropouts.

Some industry advocates have argued that additional performance accountability for Federal loans would unfairly penalize the provision of services to minority and low-income populations. The AFR coalition includes many civil rights, public interest, and social justice organizations with a deep commitment to the well-being of minority and low-income communities. We strongly disagree with the contention that limiting the access of for-profit educational institutions to Federal funds in cases where such institutions fail to meet reasonable standards on debt-to-income ratios and/or repayment rates would unfairly penalize services to these communities. For-profit colleges provide a service in exchange for a payment, and it is ultimately the student who is responsible for making that payment by taking out and repaying a loan. It is entirely proper for the Federal government to hold schools responsible for their record of helping students obtain necessary skills and put them on a path toward employment and income adequate to pay off their debt, and to not facilitate lending at schools that fail to meet appropriate standards. Such standards do not penalize minority or low-income students; they protect them and all students.

For these reasons, we urge the Department to strengthen its proposed regulations in order to ensure that they truly achieve the desired effect of inspiring low-performing programs to make swift improvements as a condition of remaining eligible for student loans and grants.

In particular, we hope you will take steps to:

1. Close loopholes and raise performance standards to keep them from being gamed by unscrupulous operators. Under the proposal as it stands, schools could easily manipulate job placement rates or evade accountability by limiting program size. Some programs could meet minimum requirements even if 99% of their students dropped out with heavy debts that they could not afford to pay down.

2. Establish enrollment caps for programs that have not addressed their problems. Low-performing programs should not be allowed to continue expanding, and tapping into more and more federal assistance, before they show evidence of improvement.

3. Require schools to provide financial relief to students when programs lose federal-aid eligibility. Justice argues for such a provision, which would also give schools a greater incentive to quickly improve their programs.

4. Adopt a debt-to-earnings measure that does a better job of reflecting all the forms of consumer credit that may be used to finance the costs of attending school.

5. Clarify the language about including private student loans. The proposed rule requires private loans to be counted as long as the affected institution knows about, or should "reasonably be aware of," them. As the Department has noted, however, private student lenders sometimes originate loans directly to students, without a school's knowledge. Including all such loans would produce a more accurate picture of the debt that students face, and it would eliminate any temptation for school employees to raise the possibility of private loans in their conversations with students and applicants.

6. Strengthen the certification standards by including institutional or programmatic accreditation when a large majority of employers in a field require such accreditation.

7. Protect low-cost programs in which most graduates don't borrow. Programs in this category should automatically meet the standards because, by definition, they do not consistently leave students with unaffordable debt. Burdened with a complicated appeals process, some such schools might decide to leave the federal student loan program, even at the cost of shutting down effective, low-cost programs.

These changes, we believe, are essential to meeting the Department's objective of protecting students and taxpayers. We strongly urge you to include them in the final rule.

Thank you for the opportunity to respond to this Request for Comment.

Sincerely,

Americans for Financial Reform