

THE COALITION FOR EDUCATIONAL SUCCESS

Preparing the New American Workforce

Ed-Success.org

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The Honorable Barack Obama
President of the United States
1600 Pennsylvania Avenue
Washington, DC 20500

Dear Mr. President:

We applaud the recent Executive Order, which seeks to improve the regulation and regulatory review process. As noted in your *Wall Street Journal* op-ed, the ability to achieve proper balance that preserves freedom of commerce and economic growth, while protecting people and businesses from abuse is paramount to America's free enterprise system.

Onerous regulations – as you put it – can “stifle innovation and have a chilling effect on growth and jobs.” However, this is exactly what will happen if the Department of Education's (Department's) proposed “Gainful Employment” (GE) regulation is implemented.

In that regard, how does the Department's GE regulation stand up against the Improving Regulation and Regulatory Review Executive Order? When comparing it against the key tenets of your Executive Order, GE fails on every one of the Order's criteria.

- **Promote economic growth, innovation, competitiveness and job security.** GE will have the opposite impact. The regulation will reduce access to higher education for many Americans by limiting financial aid to students who elect to go to for-profit career colleges, thus shutting off an important pathway to in-demand jobs. Career colleges respond quickly to demands for skilled workers, and currently offer programs in 17 of the 21 fastest growing fields, such as nurses and health care aides, computer professionals and programmers, chefs and retail managers, and solar and wind energy technicians.
- **Identify and use the best, most innovative and least burdensome tools for achieving regulatory ends.** Instead, the proposed rules are at odds with accepted economic theory. GE does not recognize that the value of higher education is experienced in lifetime earnings, and not an arbitrary window. The GE regulation is based on a faulty premise regarding student loan default rates. It uses nontransparent, privacy-protected data for earnings, so that the schools can neither plan appropriately nor challenge inaccuracies. There is little understanding of the costs of the GE regulation to students who otherwise do not have access to a higher education.
- **Take into account benefits and costs, both quantitative and qualitative.** For millions of full-time jobholders – working parents, minorities, veterans, and seniors – career colleges offer the best, and for many, the only real access to higher education. But the Department has never even tested the impact of GE on these constituencies who will bear the brunt of the regulation. Because of the GE regulation, as many as 1.5 million minority and female students may lose access to higher education and jobs. Career college graduates represent 42% of all medical degrees awarded at 2-year-and-less institutions. If these training programs are eliminated students' futures and jobs will be lost. GE's negative impact

will also be felt at the career colleges themselves, which will be forced to reduce faculty and staff as programs are deemed ineligible.

- **Allow for public participation and an open exchange of ideas.** The panel of negotiators involved in developing the GE regulation with the Department included only one career college sector representative out of 17 members. E-mail traffic shows the Department picked organizations and individuals that were most interested in harming career colleges. Also, it has been revealed that the Department was communicating behind-the-scenes with known “short-sellers” who bet against the performance of for-profit colleges, and stood to gain financially from regulations that would harm the sector.
- **Consider regulatory approaches that reduce burdens and maintain flexibility and freedom of choice for the public.** GE will have the reverse effect. The regulation is based on an arbitrary set of principles that would limit choice and reduce access to higher education for many Americans, by reducing the amount of financial aid available to students who elect to attend career colleges.
- **Measure, and seek to improve, the actual results of regulatory requirements.** It will be nearly impossible for the Department to measure the effectiveness of the GE regulation. This is because, despite Secretary Arne Duncan’s assertion, the GE regulation fails to address the real issue of student debt. In fact, the Department has taken no action on institutions of higher learning such as public and non-profit schools, which comprise the majority of student debt.

For nearly a year, the Department has been pursuing a path of arbitrarily regulating the career colleges in a way that fails every one of this Executive Order’s new criteria. The GE regulations do not just represent bad policy, the process around which the rules were developed is equally flawed. A biased panel, which only included one career college representative, helped craft the rules. And we know now that there were secret meetings between Wall Street short-sellers and Department officials just weeks before the first regulations were issued. In addition, a much-publicized Government Accountability Office investigation on alleged fraud and abuse at career colleges – and often cited as evidence for the need to impose the GE regulation – was riddled with errors, and demonstrated clear bias against the for-profit sector.

Our country has a long tradition of providing Americans from all walks of life important access to the American dream. A critical part of that dream is access to higher education. The Department’s GE regulation is a step in the wrong direction.

Mr. President, if you are serious about “striking the right balance,” the place to start is with the proposed GE regulation.

Sincerely,



Avy Stein
Co-Chairman



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