

American Association of Collegiate Registrars and Admissions Officers



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October 16, 2009

Federal Trade Commission
Office of the Secretary
Room H-135 (Annex V)
600 Pennsylvania Avenue NW
Washington DC 20580

To the Commission:

I write to submit the following comments regarding the Federal Trade Commission's "Vocational School Guides Review, Matter No. P097701."

The American Association of Collegiate Registrars and Admissions Officers (AACRAO) is a nonprofit association of more than 10,000 higher education admissions and registration professionals who represent approximately 2,500 institutions throughout the United States. Our members serve as the gatekeepers for institutional admissions and for the awarding of academic credit and credentials.

Over the past decade, our members have become increasingly concerned about the proliferation of entirely unaccredited entities that purport to provide education and training. In most states, there is little state oversight for these providers and the Federal Trade Commission serves as the only federal agency with legal jurisdiction over the activities of these entities. Some of these providers, we believe, are mere diploma mills that do little by way of actual teaching or training and are, in fact, solely in business to sell credentials of devious value. Others vary enormously in the quality of the services that they offer and the costs their customers incur for the training provided. We believe consumers need to be extraordinarily vigilant with regard to all unaccredited institutions and would encourage the Commission to specifically review its oversight authority in this arena. We urge the Commission to pay particular attention to entities offering education and training on the web since we have noticed a disproportionate number of cases of consumer fraud by web-based entities over the course of the past decade.

While consumer fraud by unaccredited providers constitutes a significant problem, our members are also concerned about waste, fraud and abuse by accredited institutions that participate in the Department of Education's student financial aid programs. We have urged the Department to take stronger steps to improve program integrity, but would encourage the Commission to also play a more active role in protecting consumers from questionable practices of the Title IV-participating institutions over which it has

jurisdiction. Particular attention should be paid to deceptive advertising, high pressure sales tactics, misrepresentation regarding transferability of credit and withdrawals and false claims regarding dropped placement rates, potential earnings and total charges. Especially because these institutions are eligible for federal financial aid, we believe the Commission should mandate specific disclosures regarding borrowing levels and actual lifetime default rates.

Attached please find AACRAO's statement on program integrity that we submitted to the Education Department.

Sincerely,


Barmak Nassirian
Associate Executive Director, External Relations

American Association of Collegiate Registrars and Admissions Officers



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June 22, 2009

Wendy Macias
U.S. Department of Education
1990 K Street, NW, Room 8017
Washington, DC 20006

Dear Ms. Macias,

I write in response to the Department's May 26, 2009 *Federal Register* notice, in which it announced its intent to establish one or more negotiated rulemaking committees to prepare proposed regulations under Title IV of the Higher Education Act of 1965, as amended. The notice indicates that at least one negotiating committee will be convened to develop proposed regulations to maintain or improve program integrity in the Title IV, HEA programs. The notice enumerates several topics related to program integrity, and elicits additional ones for possible inclusion on the agenda for subsequent negotiations.

AACRAO is a non-profit association of more than 2,500 institutions of higher education and some 10,000 campus enrollment services officials. Our members play a central role in protecting and maintaining the academic integrity of their institutions as admissions gatekeepers and as enforcers of the institutional academic policies on the basis of which academic credits and credentials are earned. As key stakeholders on behalf of their own institutions, they also have a systemic interest in the academic integrity of other institutions because they rely on credits and credentials granted by high schools and previously attended colleges and universities. Precisely because they have their own compelling interest in promoting the integrity of all collegiate institutions, we believe that the members of AACRAO are particularly reliable partners in the Department's efforts to improve program integrity in federal student aid programs.

Over the course of the past decade, our members have become increasingly alarmed by the dramatic rise in the number of diploma mills—from “high schools” to “doctoral” institutions—and the frequency of applications based on fraudulent and questionable credentials. The constant battle against ever more sophisticated fraud and abuse now occupies a major aspect of our members' professional responsibilities. Our members' efforts to protect their own institutions' academic credentials have, regrettably, been rendered more difficult as questionable schools have managed to gain Secretariially recognized accreditation and have thus become eligible for participation in federal student aid programs. The shortcomings of Title IV gate-keeping provisions—an accreditation system that actually rewards lax standards, reliance on at times non-existent

state regulatory frameworks, and a handful of ineffective federal requirements—have not only allowed shoddy institutions to gain access to federal financing, they have also created perverse incentives for many previously participating schools to vastly inflate their offerings and pose as legitimate colleges and universities.

The billions of dollars of Title IV financing certainly enable many students to participate in, and truly benefit from, legitimate postsecondary programs. Unfortunately, these same federal programs, because they are so poorly policed, allow unscrupulous participants to harm students who are misled by heavy advertising and deceptive marketing into enrolling at Title-IV mills. Victims of these types of operations, the majority of whom end up defaulting on their student loans, face a lifetime of financial hardship because they are typically left with unconscionably high indebtedness and little by way of marketable skills. These individuals are, in other words, certainly worse off as a result of their postsecondary experience. The taxpayers, of course, have footed the bill for the billions of dollars of defaulted loans and wasted grants. Legitimate institutions of higher education, employers, and other reliant third-parties are also harmed by poor Title IV gate-keeping. The lax eligibility standards currently in place harm legitimate collegiate institutions in their autonomous efforts to ensure that the transcripts and credentials they rely upon are from other legitimate institutions. Legitimate institutions are also harmed by the ever increasing number of ineffective but burdensome requirements that purport to target fraud, but that instead impose huge costs on good actors without stopping the bad ones.

Foundational improvements to Title IV program integrity require legislative changes, and we are working with committees of jurisdiction in Congress to improve the statutory language and provide the Department with additional and more effective tools. We are, nevertheless, pleased with the Department's renewed interest in improving program integrity, and urge the Administration to make a sharp break with the unfortunate policies and practices of the past eight years. Even without the legislative changes that we are advocating elsewhere, the Department can do a vastly better job of regulating and enforcing program integrity. We believe that the rulemaking process that the Department is embarking on should, at a minimum, address the following provisions:

Incentive Compensation

We strongly objected to the Bush Administration's creation of twelve loopholes in the statutory ban on incentive compensation. Not only were the exceptions to the black letter of the law made out of whole cloth, the Bush Administration failed to obtain consensus on them even after it jerry-rigged the negotiated rulemaking committee to which they were assigned. The current incentive compensation regulations violate the statute they are supposed to interpret, and should be retracted in favor of the substantially shorter, clearer, and more effective regulations that preceded them. Instead of arguing the legal and policy pitfalls of the previous Administration's twelve fabricated exceptions, attached please find our original comments, by which we still stand. Our concerns and our predictions that the regulations proposed then would lead to abuse have, sadly, been borne out by the Department's own findings in the intervening years.

Accreditation

Voluntary quality assurance through peer-review has proven to be an excellent model by which institutions that are truly interested in maintaining high standards can continually improve. Various institutional, programmatic and specialized accrediting bodies serve as important non-governmental linchpins in quality assurance under our current accreditation system. While accrediting bodies have done an excellent job with the majority of participating institutions, their effectiveness as gate-keepers against willful attempts by well-funded operations that target Title IV is questionable. Without intruding on the substantive judgments of accrediting bodies on the schools that they qualify for Title IV participation, the Department can ensure better outcomes by requiring certain administrative and financial qualifications for the accrediting bodies that it recognizes. An area of obvious concern is to ensure that accrediting bodies have financial and administrative resources commensurable with the resources of entities that they review. Current practice actually provides a perverse incentive to these bodies to be as lax as possible, since the lower their standards, the more schools they attract. Since there are no substantive adverse consequences for accreditors with a history of bad judgment, the entire system is biased in favor of erring on the side of approving, rather than denying, accreditation applications even when substantial doubt may exist about the school-applicant's legitimacy. The system should also be better regulated to prevent schools from shopping for the least demanding accreditor, which in turn, creates pressures on all accreditors to lower their standards.

Definition of High School Diploma for Title IV Purposes

Our members are particularly alarmed at the rise of high school diploma mills, particularly on the internet. Certain statutory changes in 2006 have allowed entities that some of our members view as diploma mills to gain accreditation, which makes the task of providing a definition all the more difficult. We are also aware of questionable practices in which Title IV participating institutions direct students without high school diplomas to high schools with which they appear to have certain business arrangements. We are concerned that, just as ability-to-benefit was the loophole of choice before the 1992 Amendments, fake high schools are today's easy path to satisfy the law's requirements. We believe that a carefully crafted regulatory definition of high school diploma is needed for Title IV purposes and stand ready to provide assistance to this end.

Gainful Employment in a Recognized Profession

We believe new regulations should more clearly articulate the requirements of this important statutory criterion for eligibility. The Department should explicitly defer to the states in defining "recognized professions" as those licensed by the states. In addition, the "gainful employment" standard should be more sharply tied to the amount of post-graduation debt and the relationship between servicing that debt and former students' wage differential above minimum wage.

State Authorization

States vary greatly in their practices in this regard, and some states lack a regulatory framework to license postsecondary institutions at all. The Department should define state authorization as a substantive review of institutions by an agency of jurisdiction, and enumerate minimum standards and certain characteristics such agencies must display before they can license participating schools. Schools that lack this type of licensure should not be eligible to participate in Title IV.

Saturation Advertising and Deceptive Marketing

Institutions should be held accountable for any false, deceptive, or grossly misleading claims in their advertising, and the Department should pay particularly close attention to institutions that spend disproportionate amounts—in some cases, more than they spend on instruction—on advertising. By our estimates, the top nine advertisers participating in Title IV spent a combined total of more than \$1.75 *billion* on advertising in the most recent fiscal year for which data are available, and are likely to exceed a combined total expenditure of \$2 *billion* in 2009. Several important aspects of heavy advertising budgets are worth noting. First, the heaviest advertisers are hugely dependent on Title IV, and receive as much as 81% of their revenue from federal student aid. Our estimates indicate that more than \$1.5 *billion* in Title IV funds will be spent on advertising by the nine schools in question in 2009. Second, the heaviest advertisers appear to spend disproportionately smaller portions of their budget on actual instructional costs. One of the nine schools mentioned above actually spends more on advertising than on instruction. Finally, increased 2009 advertising budgets are all the more counter-intuitive against the backdrop of dropping advertising rates due to the recessions. Current regulations on misrepresentation—34 CFR 668.71-75—have not been enforced for the last eight years, and subjecting heavy advertisers to more thorough reviews under Subpart F would be an effective first step in improving program integrity.

Disclosures

Improved consumer protection disclosures would be another important step in the right direction. Better, less distorted indicators of economic impact of schools on their students should be devised and broadly circulated by the Department. Generating cumulative lifetime default rates—counting all defaults as they occur, not just those that occur within an arbitrary and narrow window as is the case with the official cohort default rates now—would vastly improve prospective students understanding of a given school's economic impact on its former students. In addition, prospective students should be informed of the percentage of any participating school's former students who leave with debt, and of the average amounts of debt per cohort of students and cohorts of borrowers. The Department should also publish the percentage of institutional revenues derived from Title IV programs to enable prospective students to understand the extent to which parties other than the federal government are willing to spend their own money at each participating institution. These important disclosures can be done under current

authority by the Department with data that it already collects, and they can be done as an administrative matter without any regulatory changes at all. In addition, the Department could amend its regulations under 668.14 and 668.15 to mandate other disclosures such as advertising expenses compared to instructional expenses. Current regulations on completion and placement rates should also be reviewed and improved to eliminate the fairly obvious ways by which these indicators are currently gamed. Finally, complicated contracts that appear to spell out academic requirements, but that can reasonably be seen to be intended as ways of maximizing student aid utilization should be examined in the course of any rulemaking, and they should, at a minimum be required to be more clearly written to ensure that prospective students understand what they are signing.

Definition of Credit Hour

This is a topic of particular interest to AACRAO members, who have developed highly reliable voluntary definitions for their own purposes. While we are opposed to federal intervention in strictly academic affairs of institutions, we believe that non-intrusive federal minimum standards can be devised for Title IV purposes. We believe such standards can be configured in ways that protect the integrity of eligible programs—including those delivered through distance learning—without inappropriate interference in academic judgments of independent faculty.

Satisfactory Academic Progress

While judgments about academic progress are central to institutional autonomy, we are alarmed at the ways in which shoddy schools appear to be manipulating institutional policies and practices with the apparent goal of exhausting each student's maximum aid eligibility. Once again, as campus guardians of academic progress, AACRAO members have devised policies and procedures that the Department can use to prevent unscrupulous schools from gaming the Title IV system. It is crucial for any new regulations on this essentially academic matter to defer to autonomous judgments of legitimate collegiate institutions by targeting only abusive and fraudulent practices.

Improved program integrity is a common goal for legitimate collegiate institutions and the Department. We believe that the Department can take immediate administrative steps, specifically through expanded program reviews and a new policy of actually enforcing existing regulations—such as those against misrepresentation—to strengthen program integrity and curb waste, fraud and abuse in Title IV programs. We stand ready to work with the Department to develop more effective and more efficient regulations at the same time as we are working with Congress to advance important additional statutory safeguards to protect students, the taxpayers, and legitimate collegiate institutions.

Sincerely,



Barmak Nassirian
Associate Executive Director



American Association of Collegiate Registrars and Admissions Officers

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October 7, 2002

Ms. Wendy Macias
U.S. Department of Education
P.O. Box 33076
Washington, D.C. 20033-2076

Subject: AACRAO Comments Regarding Proposed Rule for Program Participation Agreement 34 CFR 668.14(b)(22)

Dear Ms. Macias:

On behalf of the American Association of Collegiate Registrars and Admissions Officers (AACRAO) and the undersigned associations, I am pleased to submit comments on proposed regulations published on August 8, 2002 in the *Federal Register*. AACRAO is a nonprofit association of more than 2,300 institutions of higher education and more than 9,000 campus enrollment services officials. Some 5,000 of our members are professionals with responsibilities that include recruitment, admissions, or financial aid decisions at their respective institutions.

I write to respectfully express our opposition to certain provisions of the proposed regulations that, if promulgated in final form, would significantly alter the incentive compensation provisions of 34 CFR 668.14(b)(22).

General Background

Congress first enacted the incentive compensation ban in 1992 as a critical component of new program integrity provisions in order to combat waste, fraud and abuse by a minority of Title IV-participating institutions. By the early 1990s, with student loan default costs escalating at an alarming rate and reports of rampant abuse and outright fraud in the trade-school sector emerging in the media, Congress and the Bush administration both agreed that urgent action was needed to restore public confidence in the integrity of federal student financial aid programs. Hearings held throughout 1990 by the Senate

Permanent Subcommittee on Investigations, chaired by Senator Sam Nunn, documented a number of abusive and fraudulent practices and found that instances of waste, fraud, and abuse, while confined to a small minority of schools, had caused significant harm to students and the taxpayers. In 1990, the Department of Education's review of 1988 default data indicated that five colleges and 85 trade schools accounted for more than 30 percent of all defaulted loans in 1998. The Senate Subcommittee's staff, in testimony before the Subcommittee, produced vivid examples of outrageous admissions practices at trade schools that treated admissions as commissioned sales. In the case of one school they cited, the following items were included in the advice dispensed by the supervisor for sales to commissioned "admissions" representatives:

Drive through large housing projects SLOWLY with door sign on. Best times are Friday afternoons and Sunday afternoons.

Meet the managers of low income and government housing apartments. Give group presentations.

Food stamp offices – leave referral cards.

Welfare offices – leave referral cards.

For other examples of questionable recruitment practices, please review the *Admissions Representative's Training Manual* from the institution in question, attached as Appendix A. (Originally included in the Subcommittee's report, Senate Hearing 101-659.)

To better demonstrate the manner in which admissions and sales incentives had overwhelmed the putative mission of the school, the Subcommittee staff concluded:

Finally, our review of A.C.T. financial records revealed that training and education expenses were dwarfed by advertising and sales costs. Our analysis of corporation expenses during the period 1986-1989 revealed that in FY 1986 instructor salaries were \$72,253 or 1.3% of revenues and advertising was \$384,583 or 7.0% of revenues. For 1988, instructors' salaries increased to \$468,079, representing 1.4% of revenues. During the same year, Advertising increased to \$11,004,410 which was a significant 33.8% of revenues. Classroom materials for FY 1986 were 0.4% of revenues and decreased to 0.3% of revenues in 1989. In FY 1986 there was no salary category for Admission Representatives which totaled \$5,935,746 or 17.2% of revenues in 1989. [Senate Hearing 101-659, pp. 190-191].

Subcommittee staff found such egregious recruitment practices as recruitment of individuals unable to ever possibly attend classes because they were serving long prison sentences and admission of individuals to truck-driving programs despite disabilities that made it impossible for them to operate a motor vehicle

The Department's Inspector General (I.G.), testifying before the Subcommittee, also specifically identified the use of commissioned recruiters as a misplaced economic incentive that led to abuse and was harming students. Citing the example of an institution against which a Boston grand jury had returned a 12-count indictment, the I.G. testified that the indictment charged that the school "attempted to recruit young, unlearned, disadvantaged students through a multi-media advertising effort and used commissioned sales agents who were required to meet or exceed certain enrollment quotas."

The Subcommittee concluded that the federal government and state agencies did a poor job of reviewing participating schools, allowing them "to prosper on a steady flow of federal student aid, targeting and manipulating students who are not sophisticated enough to realize that they are signing up for nothing more than a rip-off."

The Nunn Subcommittee and contemporaneous media reports on abusive recruitment and admissions practices, almost exclusively limited to the trade school sector, further documented the consequences of configuring admissions as a sales position. As part of the changes authorized in the 1992 reauthorization of the Higher Education Act, Congress imposed an outright ban on commissioned recruiting by requiring institutions participating in Title IV programs to agree that:

The institution will not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except that this paragraph shall not apply to the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance. [HEA §487(a)(20), 20 USC 1094]

In 1994, the Department, in regulating the unambiguous legislative language cited above, chose only to add a \$25 exemption for token gifts.

The Ethics of Admissions

Members of AACRAO, consisting of degree-granting collegiate institutions of higher education, have been and continue to be satisfied with current law. Since the enactment of the 1992 law, we have had no complaints from our members about the ban on incentive compensation. Our membership believes that college admissions is primarily a counseling profession concerned with assisting students to attend an institution *that is right for them*, and that any attempt to tie the compensation of admissions officials to the number of students they recruit for their own institution would constitute an inherent conflict of interest. Indeed, we believe that the very possibility that *any* admissions official may have a vested personal interest in securing the enrollment of students would bring disrepute to the profession. The AACRAO Board of Directors has affirmed this view by adopting the *AACRAO Professional Practices and Ethical Standards*, among whose strictures is the requirement that the members of the Association shall "represent

an institution or Association perspective without vested interests or personal bias.” AACRAO also has endorsed the *Statement of Principles of Good Practice (SPGP)* developed by the National Association for College Admission Counseling, a sister organization to which some 1,700 AACRAO member-institutions also belong. Section I(A)(1) of the NACAC *SPGP* states:

College and university members agree that they will ensure that admission counselors are viewed as professional members of their institutions’ staffs. As professionals, their compensation shall take the form of a fixed salary rather than commissions or bonuses based on the number of students recruited.

In addition, Section I(A)(5)(b) of the *SPGP* states:

College and university members agree that they will not use unprofessional promotional tactics by admission counselors and other institutional representatives. They will not offer or pay a per capita premium to any individual or agency for the recruitment or enrollment of students, international as well as domestic.

The Proposed Rule

The proposed regulations, published in the August 8, 2002 *Federal Register*, were part of a package initially submitted to a negotiated rulemaking committee convened by the Department pursuant to HEA Title IV Part G §492. Despite the fact that the Department took extraordinary steps to appoint negotiators of its choosing, the negotiations failed to arrive at a consensus on the proposed regulations on incentive compensation. Nevertheless, the Department is unilaterally proposing to alter—and weaken—the legislative ban on incentive compensation in the following manner:

1. **Section 668.14(b)(ii)(A) would create a safe harbor exemption for fixed “salary” payments, even if such payments are partially based on the number of students recruited, admitted, enrolled, or awarded financial aid, provided that such “salaries” are not adjusted more than twice a year.** This provision violates the letter of the law and, if adopted, would create a loophole that would be easily susceptible to gaming. Unscrupulous schools could bundle sales commissions earned over six-month cycles, marginally modify them with other performance criteria, and adjust employees’ “salaries” to reflect the changes.
2. **Section 668.14(b)(ii)(B) would allow commission-based recruiting for non-Title IV programs at institutions participating in Title IV.** This provision violates the letter of the law and, if adopted, would allow unscrupulous schools to engage in predatory recruitment practices against one segment of their “market” while also participating in federal student assistance programs. There is also a high likelihood that students secured through high

pressure sales tactics would, after a brief period of enrollment financed through loss-leader private loans, be transferred to aid-eligible programs.

3. **Section 668.14(b)(22)(ii)(D) would expand the commonly accepted concept of “profit sharing” to allow currently prohibited payments if these are made to all or “substantially all” employees of the school, and it also fails to provide important definitions that would limit abuse.**

Unscrupulous schools could find numerous ways in which to manipulate this provision to generate commission payments to recruiters. The case of the trade school referred to above provides a particularly instructive example. The Nunn Subcommittee found that, upon gaining entry into the federal student loan programs, the school experienced a one-year change of fortune in 1986, which took it from a net loss of \$90,926 the previous year to profits of \$2,449,231. The school’s profit sharing and bonus plan for its two executive officers consumed \$2,242,400 in total compensation for that year. There is nothing in the proposed rule that would prohibit a repeat of such practices.

4. **Section 668.14(b)(ii)(E) would allow commission-based compensation based on program completion.** The preamble to the April 29, 1994 Interim Final Rule on incentive compensation provides a compelling argument against this policy change: “The Secretary believes that even in incentive payment structures based on retention there is room for abuse and, in fact, has seen evidence of such abuse. Since July 1992 when the Amendments of 1992 were enacted, many institutions have opted to change to retention-based pay for admissions personnel. In that time, the Secretary has seen evidence of lowered satisfactory progress standards and in extreme cases, falsified attendance and leave of absence requests, all in an effort to keep students enrolled. In many cases, these practices were designed by admissions personnel who were duly paid after the student passed a retention mark. After that mark, the students were dropped.”

5. **Section 668.14(b)(22)(ii)(F) would allow commission-based compensation to employees who perform “pre-enrollment” activities, provided the compensation is not based on the number of individuals actually enrolled.** This provision violates the letter of the law in failing to include the awarding of financial aid as a prohibited basis for commissions, and would allow admissions and recruiting—by definition, “pre-enrollment” activities—to be compensated on the basis of the amount of federal aid successfully secured per student.

6. **Section 668.14(b)(22)(ii)(G) would allow commission-based compensation to managerial or supervisory employees who are not directly involved, and do not supervise others who are directly involved, in recruiting, admissions, or awarding of financial aid.** This provision violates the letter of the law, which bans the payment of commission, bonus, or other incentive payments to any person “engaged” in *any* recruitment or admission activity, regardless of whether the nature of such activity is direct or mediated. The assumption that supervisors, because they are not directly involved, are

therefore not engaged in recruitment, admission, or awarding aid is questionable.

7. **Section 688.14(b)(22)(ii)(J) would allow commission payments for Internet-based recruitment and admission activities.** This provision violates the letter of the law and would, if adopted, create a regulatory exception to the blanket legislative ban on such arrangements. The Department cites the Report of the Web-based Education Commission, as if this citation provides it with both a rationale for the change and the authority to act. We note that the Commission conducted its work without the requisite familiarity with the workings of Title IV or the history of past abuses that Congress had sought to curb in drafting its specific provisions. Furthermore, its 168-page report devotes merely three paragraphs to a discussion of the incentive compensation ban, and moves quickly through a series of non-sequiturs to note that the provision bans web recruiting contracts based on the number of referrals who actually apply or enroll. We believe that a radical change in national policy should be based on a meaningful fact-finding effort by the congressional committees with knowledge of, and jurisdiction over, the Higher Education Act. We also note that the Report's brief discussion of the ban ends with the assertion that "the Department has concluded that this provision could only be changed through new legislation."
8. **Section 688.14(b)(22)(ii)(L) would allow schools to enter into revenue-sharing (i.e., commission-based) contracts "with outside entities for recruiting or admission activities or the awarding of title IV, HEA program funds, provided that the individuals performing recruiting or admission activities or the awarding of title IV, HEA program funds, are not compensated in a manner that would be impermissible" for institutions to compensate their employees.** This provision turns the unequivocal language of the law, which specifically bans commission payments to any persons or *entities*, on its head. Congress did not, and the Department therefore cannot, make a distinction between external entities based on their compensation policies. The law simply bans all commission-based contracts, largely to address documented cases of abuse arising out of such arrangements. The proposed language would effectively allow outside companies to be retained as commissioned sales agents, so long as other "services" are bundled with recruitment to mask the essential nature and purpose of the arrangement.

We believe the proposed changes listed above are ill-advised at this time for the following reasons:

1. No Evidence of a Problem

First, it is noteworthy that the two organizations representing the admissions profession support the current ban, while the Department of Education, one of whose responsibilities

is to ensure the integrity of Title IV programs, is contemplating the creation of loopholes in a law that has proven effective in combating waste, fraud, and abuse. As already mentioned above, we are unaware of any difficulties the current ban has posed for our members. We would ask the Department to more precisely identify the “problem” it is seeking to address, and urge it to review recent history before legalizing practices whose consequences are sadly predictable.

2. No Authority

Second, the proposed regulations violate the clear language of the law. Regardless of whether or not the severity of the current ban is appropriate, the Department has no authority to promulgate regulations that fundamentally rewrite the statute. The strained interpretive effort to conjure up exception after exception, while appropriate as an expression of the administration’s policy goals for the upcoming reauthorization, can hardly be viewed as an attempt by the Department to fulfill its obligation to implement what the legislative language plainly states.

3. Questionable Timing and Procedures

Third, the proposed regulations have been published and could be finalized on the eve of a reauthorization. Congress has already embarked on a comprehensive review of the Higher Education Act, and any changes to this or other provisions can be lawfully adopted through the reauthorization process in short order. As there is no evidence of a crisis requiring immediate action, we urge the Department to make its case before the Congress on this important policy issue. Unilateral action by the Department is all the less appropriate because it was, as noted above, unable to obtain consensus for the proposed regulations from the negotiating committee it handpicked.

4. Complexity of Compliance and Enforcement

Finally, the proposed regulations—precisely because the Department is straining to interpret the law to mean other than what it says—constitute a textbook example of unnecessary complexity. The new exemptions are so numerous that they expand the regulatory language by more than six-fold. What is and what is not allowable will be more difficult for institutions, for the Department, and for the courts to understand and correctly interpret. Secretary Paige himself acknowledged the importance of providing clear and workable rules on this issue when he assured the late Representative Patsy Mink in writing on July 24, 2001 that “any new guidance on this topic [will] be clear and not overly prescriptive for institutions of higher education” [Congressional Record, October 10, 2001, page H-6468]. Yet, the proposed rule would expand the one clear exemption in current law to twelve highly nuanced categories. We believe that this complex proposal does not conform to the spirit of the overall requirement of Executive Order 12866 to reduce regulatory burdens. Indeed, the proposed rules are so broad and so vague that we believe the Department will some day find itself unable to pursue even the most obvious and egregious violations of this provision.

Summary

We believe that these proposed changes represent a giant step backward for the integrity of federal student financial assistance programs. Recent corporate scandals have reminded the nation of the importance of the federal role in ensuring that ethical norms govern the marketplace. In proposing a de facto administrative repeal of an existing law, the Department would not only be acting without authority, it would be establishing a policy that will undoubtedly result in future scandals.

Sincerely,



Jerome H. Sullivan
Executive Director

On behalf of:

American Association of State Colleges and Universities
State PIRGs' Higher Education Project
United States Student Association

FEB-16-98 FRI 1:55

OUTGOING CALLSNEW CONTRACTS

The Student Services Department will contact newly enrolled students to greet them and explain to them what the Student Services Department has to offer.

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 12.

The following guide lines should be adhered to:

1. Welcome them into the program.
2. Ask if they are enjoying their lessons.
3. Answer any questions they may have with regards to either their lessons or school procedures.
4. Ask them if they enjoyed the video their sales representative showed them when they enrolled, and was he able to answer all their questions?
5. Was the deposit given to sales rep. cash or check?
6. Ask how they heard about our school.
7. Have them start thinking about Resident Training.
8. Verify their address and telephone number.
9. Get a telephone number of a friend or work number as an alternate number if we cannot reach them at their home number.
10. Remind them to let us know IMMEDIATELY if they move.
11. Remind them that we are here to help them in anyway we can to make their Home-Study more enjoyable.

REMEMBER TO RECORD ANY PROBLEMS OR UNUSUAL ANSWERS IN YOUR REMARKS COLUMN AND BRING IT TO YOUR SUPERVISORS ATTENTION.

SEE
EXHIBIT
TRAINING
MANUAL
4/89

EXCERPT FROM
STUDENT SERVICES DEPARTMENT
PROCEDURES GIVEN TO
CARL EDWARDS 1/10-12/90.

AMERICAN CAREER TRAINING CORPORATION



ADMISSIONS REPRESENTATIVE'S TRAINING MANUAL

Revised April 1989

II. Background of American Career Training, Corp. (A.C.T.)

- A. founded in June, 1982, in Pompano Beach, Florida
- B. grown from a local school in South Florida to over 135 representatives in over 25 states!
- C. most territories have original representatives hired (very little turnover!)
- D. currently employs over 300 people in its staff and faculty.
- E. student body growth - from 50-100 students in home study to over 25,000 today and from 8 students in Resident Training to almost 400 today.
- F. A.C.T. has successfully trained over 35,000 students.
- G. ~~A.C.T. is licensed and/or registered with the Departments of Education in each state represented under Trade and Business Schools.~~
- H. nationally accredited by the National Home Study Council since March, 1985
- 1) *A.C.T. is the youngest school to receive national accreditation in the history of the N.H.S.C.*
 - 2) *A.C.T. is one of only two schools to be accepted on its first application*
 - 3) *Joseph A. Calareso, President of A.C.T. currently serves on the N.H.S.C.'s Board of Trustees*
- I. Both A.C.T. Travel School and The Hart School for Professional Secretaries are members of the Florida Association of Accredited Private Schools and the North Broward/Pompano Beach Chamber of Commerce.
- J. A.C.T. Travel School is also a member of:
ASTA - American Society of Travel Agents
NTA - National Tour Association
- K. The Hart School for Professional Secretaries is also a member of Professional Secretaries International

proper license references (6-2-84) A.C.T.

IV. Basic Responsibilities/Procedures

A. Leads

Generated from newspaper advertising, referral cards, flyers, etc., are distributed EVERY DAY to representatives. All leads received by phone will be entered into our computer and sorted by zip code assignment to each representative. It is the representative's responsibility to call each day for leads and messages!!

B. Enrollments

When enrolling a student, admissions representatives MUST call the home office to notify and report student's name, address, lead number and amount of registration fee. (This can also be effective for "approval" on hard-to-close prospects!) At this point, a letter is sent out to the student from the placement director (see Exhibit A-1 & A-2), thus reducing any chance of buyers' remorse and cancellations.

If the student requests an application for a Student Loan, it's at this time that the call can be transferred to Financial Aid.

ALL ENROLLMENTS ARE TO BE MAILED IN TO HOME OFFICE ON THE SAME DAY OF THE SALE!!!

NOTE - a student has 5 business days to withdraw and receive a full refund from the date of ACCEPTANCE!!

Enrollments are accepted daily, as received, and are sent a formal letter of acceptance with a copy of their fully signed enrollment agreement (see Exhibits B-1 & B-2).

C. Commissions

A \$300.00 commission will be earned for each enrollment, on a 50/50 split until representative is paid in full. Half of all monies collected from student at the time of enrollment will be paid to rep (up to \$300.00). If full commission is not earned from initial enrollment fee, then half of all student's payments will be paid to rep as collected until rep has been paid in full.

Examples:	Down Payment	Commission Paid
	\$600.00	\$300.00
	300.00	150.00
	150.00	75.00

Commission checks are cut and mailed out each week with a detailed printout listing each active student with commissions due. *(In the event of a refund being issued to the student, the rep may be "charged back" a portion of his/her commission.)*

EXHIBIT O-1

SET THE STAGE AND STAY IN CONTROL

1. Variable Situations
 - A. Physical contact
 - B. Mental contact
 - C. Consideration of yourself
 - D. Consideration of buying
 - E. Need or
 - F. Want
 - G. Resolve to buy

2. Five Components of Each Sale
 - A. Source
 1. Familiarity with product or service
 2. Recognition through advertising
 3. Sense of "Ok-ness"
 - B. Need
 1. Determine the needs or wants of the prospect from a benefit basis
 2. Turn the features of the product or service into benefits that will serve their specific needs!
 - C. Product or Service
 - D. Price
 1. Tuition is an investment
 2. Justified by their needs
 - E. Time or Close

Remember:

Never mention a feature if it can't be turned into a benefit to serve the prospect's needs.

Play the role of "career consultant" with the prospect. Ask questions; make the prospect tell you what they want to hear. Use the P.Q.P.!

When more than one is to be sold be sure to "set your stage" and, above all, do your own selling. Don't expect an untrained person to be able to sell.

When your presentation is interrupted, always repeat what has been covered before proceeding.

IX. In-Home Pitch (Travel)

A.C.T. Travel School trains people in the travel industry - those who want to become travel agents or work for airlines, either as a ticket agent or reservationist. Some like to get involved with cruise lines, others with car rental agencies, some with motels, and some in the tour business.

A lot of people get started in the industry because of the many benefits: It's a billion dollar industry and a lot of people can make a lot of money and have a lot of fun doing it. Some people who want to become travel agents get started in this because of the "fam" trips. These are the trips that hotels, cruise lines, and airlines offer. They are all anxious for you to sell their business. They offer "fam" trips to encourage you to book your clients on their airline, cruise ship, etc.. Then you can specialize in specific things. If you want to specialize in the Caribbean, there's a lot of islands over there, you could take trips over there. These trips normally are free, some involve a small surcharge. Some people get involved in the reservationist/ticket agent field, because they can get free travel for themselves, as well as their families.

Another good benefit is that you can live anywhere. We have people now that we place worldwide. As a matter of fact, we've got some now in France, British West Indies, as well as all parts of the United States.

Another benefit is flexibility. You can work full time or part time. Of course, if you have no job right now, you'll certainly want a full time job. If you're raising small children, you may want to take a part time position. You can also work from your house and just book travel, working strictly on a commission basis.

Earn good pay. Our presentation manual states that incomes nationally for travel agents ranges between \$10,000 and \$20,000. Nationally, in the airline industry, incomes are over \$23,000. Of course, this all depends on what area of the country you come from. When you are first starting out, no one expects to make a lot of dollars, but this is the national average.

This is certainly a respected profession. It's a lot of fun. If you say you are a travel agent or are working for the airline, it's certainly a prestigious job.

You can discover excitement. In the travel business, visiting various places and meeting a lot of interesting people is certainly exciting.

You are on your way to having a great career opportunity. In this industry, you can eventually own your own business and anybody would like to do that.

This is a Personal Qualification Profile form for you to complete. This will help us evaluate your ability to benefit from the course. It provides us with information regarding your personal, educational and employment history. We're going to ask you in your own words why you want to get started in the travel industry. If we recommend you, we hope you could start today. You will be working 5-10 hours per week on your lessons. You need to specify what area of employment you are looking for and what geographic area. We will need some references. And some financial information on savings, checking, VISA, MasterCard, or just cash on hand. We will need your signature. Then, I'll review this form. If I feel that I can recommend you for this school (a recommendation is necessary for admission), I will sign this, indicating that you are qualified for entry into the school. I'll also need that tuition deposit I mentioned to you before, on the phone, as well as a photograph. This will go in to the admissions committee, who will review your application and within a period of five days you will know one way or the other if you have been accepted.

I have here a Travel Connection. Once you graduate from the school, you will receive one of these every month. This tells about job opportunities. There are four pages of job opportunities in this one, as well as do's and don't's for job seekers, and where some of our recent graduates were placed. You will notice that many were placed in hotels, tour companies, travel agencies, cruise lines, airlines, and car rental agencies.

We want you to be successful. After all, we're only as good as the people working in the industry. I have a couple articles here, one from TWA. It says that the majority of openings that do occur, occur in the reservation/sales agent/ticket agent field. These positions are normally filled by experienced and trained people. Deregulation has caused a lot of travellers to flock to travel agents. Prior to 1978, agents were not required to be trained. That has now changed. You need computer training. I have an article here that says, "Fly high with a good travel school." Of course, we know we're good. We've been in the business now for 7 years. We have enrolled numerous people and have an excellent placement record. In an article here out of Pompano Beach, Sharyn Cole our placement director states that if the student has the right attitude, there is no limit to what he can do. We can normally find them a position anywhere in the world they choose.

I have some testimonials from students. This one is from Sherry Roberts. It says, "I must emphasize A.C.T. is an outstanding travel school and anyone who is contemplating a career in travel, I strongly recommend this."

I mentioned the Travel Talks. We have a testimonial here from Evelyn Nixon, which says, "A.C.T. staff, my sincere thanks go out to all of you. I'm on my way to a promising career with American Airlines. I have two more weeks of training to go. We will receive a Welcome Aboard pass to go anywhere we want to at that time." Evelyn was a resident of North Carolina and she just became a reservationist in Hartford, Connecticut with American Airlines.

Here is another letter from Teresa Joiner, who states that, "This is a thank you note. I would never have been offered this job if my employer had not been impressed with my schooling."

~~We get numerous statements like this.~~ We get them from outstanding graduates of the school. This letter is from Lynn Sumnerford, who started out as a ticket agent with Atlantic Gulf Airlines in Tallahassee. Within two days, she moved up to become a flight attendant. This letter is from Budget Rent-A-Car. They are paying an average of \$5.00 an hour with additional benefits. I like this letter from Continental Airlines which was sent to Sharyn Cole. "I would like to take the opportunity to thank you and your staff for helping us to meet our hiring needs with such well-trained, qualified students. I was certainly impressed with your facilities and staff." We have some letters from President Reagan who commends the National Home Study Council for the success it renders to the nation. "Through study at home, citizens of all ages enrich their lives and prepare themselves for more productive roles in their community and the nation."

We are accredited by the National Home Study Council. There are well over 10,000 schools in the United States, but there are only 104 that are accredited by the National Home Study Council. We were one of two schools in its history to be approved on the first application. Here are photographs of some of our graduates.

Of course, the only question I haven't answered is, "What does this program cost?" The cost is _____. The majority of the people pay it all up front. If this creates a problem, we do have other payment plans. Or, you may just be one of those lucky individuals who qualify for a Guaranteed Student Loan. If that is the case, we can waive these payment plans, and I can recommend you for acceptance into A.C.T. with a deposit of \$25.00.

on-the-job type problem solving. You are going to improve your skills. You're going to improve your speed and accuracy in typing because we hope to get you up another ten to fifteen words per minute. You'll be doing a lot of transcription. That's important. There is no shorthand any more. It's actually transcribing dictation. You will be also working with the Wang Word Processor. Of the 120 clock hours you will have at Resident Training, 80 plus is going to be on typing, word processing and transcription.

You are also going to be training in realistic office situations. You will be learning in office-type environments, how to handle the equipment in these offices, also solving certain situations. We also have a self-directed job search department, we'll be teaching you employability skills and Professional Image. When you graduate, you will receive a diploma. You will be meeting with our placement department and they will prepare resumes for you, they'll tell you how to dress, how to handle yourself at interviews. As a matter of fact, we have many on-campus interviews being conducted by outside companies.

When you graduate, as we mentioned before, you're going to be qualified for an entry level position as a secretary, a general secretary, an executive secretary, or a clerk/typist.

We are licensed in the state of Florida, and members of the Florida Association of Accredited Private Schools, as well as Accredited by the National Home Study Council. We are also a member of Professional Secretaries International.

I'm here, actually, to interview you, answer your questions, evaluate you, see if you would qualify to come into our school.

At this time, I would like you to fill out a Personal Qualification and Profile form. This will tell me whether you will benefit from the course and whether I can recommend you for our school. Of course, all I can do is recommend you. You have to be accepted by the admissions committee.

Everything looks good on the Personal Qualification and Profile form. Let me just explain a little about what is happening here. A lot of women get started in business and eventually move up the ladder. That's what this shows - people in advertising and broadcasting. It's very hard to find a good secretary, so when the boss has one, he's going to try to keep her. How does he do that? He gives you pay raises and other benefits. This article says the employers might be able to fill about half of the expected annual openings with students who have completed secondary or post secondary secretarial programs. That's what we are - a post secondary trade school. We are looking for the secretary with the right stuff, who can get things done, who is poised and polished, one who can think, one who can organize and coordinate, has the self-confidence and self-discipline to be successful. Of course, if you look in the want ads, this is just one page, from the September 27 Palm Beach Post, there are plenty of jobs here, incomes ranging from \$18,000 to \$24,000.

This is the new electronic typewriter you will receive. Of course, it has a 50,000 word dictionary in it, it has a processing system that allows it to recall or delete text using a built-in character memory. A nice typewriter. One that has a good retail value.

Here is an article from our placement director which states that she just had a conversation with a representative from Norell Temporary Services regarding our program. She was so impressed with it that she is anxious to start hiring secretaries in her temporary services. She has 235 locations throughout the United States.

This article says, "Vocational schools offer fast job training." This one says, "Only half the nation's vocational schools meet the minimum standards set by accrediting agencies recognized by the Department of Education." If you want to check out schools, they tell you to check with the National Home Study Council in Washington, DC. You will notice that we are members of the National Home Study Council since 1985. We have numerous letters here from President Reagan.

The only thing I haven't told you is what our tuition fees are. They are _____ . You can pay it all up front or they have payment plans. Or you may be eligible for a Guaranteed Student Loan. If you are, this is what I need from you. I need two enrollment agreements signed, one I keep, one you keep. I have a completed questionnaire, and I want to recommend you because I think you have outstanding features. I need a photograph and the tuition deposit. Within a period of five days you will know whether you have been accepted by the school.

EXHIBIT I

CREATIVE MARKETING WHERE ARE THE PEOPLE?

UNEMPLOYMENT OFFICES
WELFARE OFFICES
 FLEA MARKETS
 APARTMENT COMPLEX
BUS STATIONS
 DOOR-TO-DOOR HOUSING
 BUS STOPS
 FOOD STORES; SUPERMARKETS
 K-MART
 DISCOUNT STORES
 PARKING LOTS
 WOMEN'S CLUBS
 ELKS
 EAGLES
 BANKS
 OFFICE BUILDINGS
 STRIP SHOPPING CENTERS
 MOBILE HOMES
 Y.M.C.A.

Y.W.C.A.
 PARENTS WITHOUT PARTNERS
 NEIGHBORHOOD MEETINGS
 FRIENDS
RELATIVES
NEIGHBORS
 HIGH SCHOOLS
 SOCIAL SERVICES
DOCTORS - YES M.D.
 DENTISTS - YES D.D.S.
 ATTORNEYS - YES
 SCHOOL TEACHERS
 PERSONNEL OFFICES
EMPLOYMENT AGENCIES
 AUTOMOBILE AGENCIES
 MOBILE HOME PARKS
 CHURCHES

AND THE LIST GOES ON . . .

PEOPLE ARE EVERYWHERE!!

This is the new electronic typewriter you will receive. Of course, it has a 50,000 word dictionary in it, it has a processing system that allows it to recall or delete text using a built-in character memory. A nice typewriter! One that has a good retail value.

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EXHIBIT U-1

FROM: John Wash
TO: All Admission Representatives

We all appreciate the effort and TEAMWORK demonstrated as we compiled the following list of suggestions to generate additional business. Our anticipation to see your numbers increase has already been revealed in our 1988 projections and individual quotas. Good luck in the new year and watch for more exciting news to increase your production!

1. Handouts at malls.
2. Call churches, speak to pastor first, then to young people's counselors. Many church groups have nights where they have a panel of people in different careers for young people to ask questions.
3. Leave car signs on - even when not working.
4. Use referral cards at every interview.
5. Talk to waitresses in fast food restaurants.
6. Use billboards at fitness centers, laundromats, housing projects, condominiums and apartment projects.
7. Encourage prospect to bring someone along.
8. High School career counselors.
9. Rehabilitation centers.
10. Chain method - get 1 lead from each enrollment. Use PQP where references are required.
11. Contact managers of city parks - present program to them.
12. Stay in touch with students and graduates showing interest in their progress.
13. Upon enrollment, get two referral names and phone numbers. Then give the student 3 referral cards.
14. Visit travel agencies in your area - leave your card with the manager.
15. Bus systems offer inside advertising on the buses.

EXHIBIT U-2

16. Conducting Saturday sits at rural grocery store. Put up notices in 30-35 mile radius giving date, time and place.
17. Leave business cards and brochures in all fast food restaurants.
18. Drive through large housing projects SLOWLY with door sign on. Best times are Friday afternoons and Sunday afternoons.
19. If a student is a motivator and a go-getter type person, I ask that we set up another meeting in her home in about 4 or 5 days with at least 5 friends.
20. Always wear lapel pin. Pin can read - Joe Doakes, Admissions A.C.T. Travel School (1-800-432-3004 FL)
21. Meet with the managers of low income and government housing apartments. Give group presentation.
22. Keep in touch with the G.E.D. Board. Classes are normally held at night - Adult Education.
23. Put business cards at city libraries in the travel section.
24. Purchase personalized car tags from the state. Tag reads A.C.T. or CAREERS.
25. Contacts in some of the hospitals or hotels (maids).
26. Rent space in mall when "TRAVEL" is the theme.
27. Find school counselors who work with High School Seniors who have no intention of going to college.
28. Rent space at local flea markets.
29. Place literature in physicians and dental offices (if possible).
30. Posting A.C.T. flyers or posters at area colleges and universities.
31. Car signs work when you go into service stations.

EXHIBIT U-3

32. Make up "Special Packets" consisting of brochures, Travel Talks, See the World flyer. On outside of brochure, I staple a referral card and name card.
33. Talk to counselors from state agencies.
34. Talk to Regional Directors that handle retraining and placement of personnel in plant closings.
35. Present our program to certain minority-oriented churches that offer counseling and guidance to young divorcees and unwed mothers.
36. Reps are using their commission sheet to record the times called as well as how many referrals each student gives the rep.
37. College career days on black campuses.
38. Contact women's clubs.
39. Business card "Give-out System" at shopping centers.
40. Contact Educational Center Director at military bases. Work with military and civilian workers who want information on careers in travel or secretarial profession.
41. Leave brochures at beauty shops.
42. Why not use "Bird dogs" to get you business?
43. Unemployment offices - leave referral cards.
44. Food stamp offices - leave referral cards.
45. Welfare offices - leave referral cards.



UNITED STATES DEPARTMENT OF EDUCATION
 REGION IV
 101 MARIETTA TOWER BUILDING SUITE 2203
 ATLANTA, GEORGIA 30323

VM
 196

STUDENT FINANCIAL ASSISTANCE

November 8, 1988

Senate Permanent Subcommittee
on Investigations

EXHIBIT # 13.

Mr. Joseph Calareso
 President
 American Career Training
 Travel School
 4699 No. Federal Highway
 Pompano Beach, Florida 33064

Dear Mr. Calareso:

On October 17-19, 1988, a review was conducted of the Guaranteed Student Loan program administered at your institution. The findings of that review are presented in the enclosed report.

Findings of non-compliance are referenced to the applicable regulations and specify the action required in order to comply with the regulations and statutes. Please review the report and respond to each finding by indicating what actions have been taken to date or will be taken. Your response should be sent directly to the reviewer within 30 days.

I would like to express my appreciation for the courtesy and cooperation extended to me during the review. If you have any questions concerning the report, please call our office at (404) 331-4172.

Sincerely,

Vivian W. McGee
 Institutional Review Specialist

Enclosure

cc: Ms. Victoria Edwards, Chief, IRB, Wash. DC
 Ms. Brenda Brandon, Financial Aid Director