

# Congress of the United States

Washington, DC 20515

September 9, 2010

Secretary Arne Duncan  
400 Maryland Avenue Southwest  
Washington, DC 20515-3001

Re: Program Integrity; Gainful Employment (Document ID ED-2010-OPE-0012-0001)

Dear Secretary Duncan:

We are writing to request that the Department delay implementation of the regulation announced in the Notice of Proposed Rule Making (“NPRM”) issued on July 26, 2010, regarding Gainful Employment. As Members of Congress from the State of Wisconsin, we are united in our support for students’ access to quality education that helps to build a robust, skilled workforce within our state. Because many of our constituents have voiced concerns that the proposed rule will negatively affect our state’s students and workers, we request that the Department allow ample time to consider these concerns and the results of the pending GAO study before implementing the Gainful Employment regulation.

Over the last several weeks since the NPRM was published, we have heard constituents raise many diverse concerns with the proposed rule. Some of the questions and concerns, which we would like the Department to address, include:

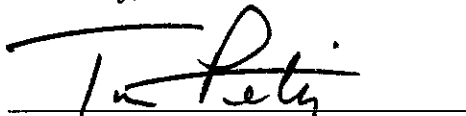
- If the proposed rule is enacted, it could potentially prevent hundreds of thousands of students from gaining access to postsecondary education in accredited institutions throughout the State of Wisconsin and across the country, during a time when it is critical for our country to increase its number of skilled workers. How is the Department going to ensure students’ access to job training if the Department implements the proposed rule?
- If the Department is concerned with lowering the debt burden on American students, why are students at most non-profit schools being excluded from the regulation’s protections?
- Is there a better way to define “gainful employment” that more accurately measures programmatic quality than the proposed metric of loan repayment rates?
- Is there a better way to distinguish between high and low quality programs that does not penalize institutions that serve high-risk populations?
- Schools in our state are concerned that the proposed metric holds schools accountable for factors beyond their control, for example, the amount of living expenses students borrow which the school is statutorily required to disburse. Additionally, the proposed metric holds schools accountable for uncontrollable

Additionally, the proposed metric holds schools accountable for uncontrollable factors that lower graduates' income, such as the flux of the economy. Therefore, schools are concerned that the debt to income metric is an unfair standard because significant portions are beyond their control.

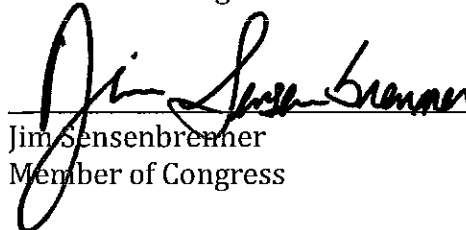
- The proposed rule will essentially restrict schools' access to funding on the basis of program data that is not currently available (i.e. repayment rates by program). Schools are concerned that the proposed rule will have serious unanticipated consequences and therefore urge the Department to delay implementation of the rule until program data is available and the impact of the rule can be made known and evaluated.
- The proposed rule will require certain for-profit educational institutions to take on an additional administrative burden, including the conducting of employer surveys and additional reporting to the Department. Is this government interference in private enterprise the least intrusive way that the federal government can protect students from loan debt?
- What other solutions has the Department considered to solve the student debt problem? Could the Department lower the cost of quality education in other ways that do not penalize accredited, quality programs?
- Why is the Department rushing to implement this rule, in advance of a major report by the Government Accountability Office ("GAO") that will inform the discussion of this issue? Why is the Department making such substantive changes in education finance so quickly after Congress updated the Higher Education Act ("HEA")?

Thank you for your attention to these concerns. We look forward to the Department's response. We invite the Department to continue this discussion with us as we work together to preserve access to quality education, to improve the affordability of advanced degrees and to increase the attainability of well-paying employment in this country.

Sincerely,



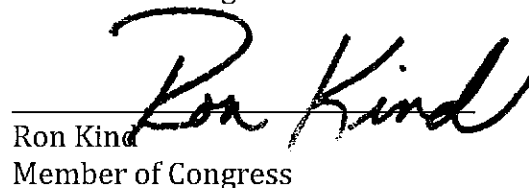
Thomas E. Petri  
Member of Congress



Jim Sensenbrenner  
Member of Congress



Paul Ryan  
Member of Congress



Ron Kind  
Member of Congress