

2011 HOUSE EDUCATION

HB 1128

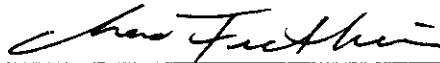
2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1128
01/12/11
12803

☐ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will open the hearing on HB 1128. Support? We will hold the hearing open. Any other testimony?

Dr. Douglas Johnson – Director, NDCEL: We are neutral on this bill at this point. We are looking at how we see the 2-4 yr colleges and universities working. We are talking about a program where we are looking to get some funding to put together a committee to look at related jobs and coordinate particularly with our two year colleges. I think it would help develop this program.

Chairman RaeAnn Kelsch: For 1128 we will be waiting until 10:30 AM. This bill has a fiscal note so you are aware members. We will recess till 10:30 AM.

Chairman RaeAnn Kelsch: we will reconvene and we will have another person reading Wayne Kutzer's testimony.

Wayne Kutzer – Director, Department of Career and Technical Education: Testimony read by Debra Huber - NDCEL. Attachment 1.

Chairman RaeAnn Kelsch: Is this budgeted in anybody's budget bill?

Debra Huber - NDCEL: Right now it is not.

Chairman RaeAnn Kelsch: So this is stand alone with the fiscal note in addition to the CTE budget or the higher education budget. Questions?

Rep. Phillip Mueller: Is the CTE board involved in reporting?

Debra Huber - NDCEL: I think there was a report to the interim higher education community last fall.

Rep. Phillip Mueller: Do you think the new structure would provide for that?

Debra Huber - NDCEL: I'm not sure on that.

Chairman RaeAnn Kelsch: I'm guessing if we wanted to receive a report we could do that in the legislation.

Rep. Dennis Johnson: 80% of these students are working under grants and degrees. Just to give magnitude.

Chairman RaeAnn Kelsch: And the majority are working on masters or above. Questions? Testimony?

Michel Hillman – NDUS: Testimony. Attachment 2.

Vice Chair Lisa Meier: Which approach do you like better? HB 1128 or 1129? I looked at 1129 and it is already appropriated 192,700 dollars at the request for the North Dakota University.

Chairman RaeAnn Kelsch: Neither is in the budget.

Vice Chair Lisa Meier: Which one do you like better? HB 1128 or HB 1129?

Michel Hillman – NDUS: The numbers you were referring to were the estimates and is not in the budget. I think either would work and I expect our close relationship with Career and Technical Education would continue. What we discussed with our committee is if our office had a role in it, we could be viewed as having a conflict of interest. I think in the approach we have taken so far it is not our perspective. We are trying to improve access to higher education. The opinion I'm giving you is my personal opinion. Many institutions offer programs at the associate degree level and above and some at the associate and below. I would think they'd rather work with one institute rather than two. My guess is the feds are going to want to know where to get the information.

Chairman RaeAnn Kelsch: Where do the authorization fees go?

Rep. Karen Rohr: On page 2 of your testimony you mentioned national data. Do we have anything relevant to ND?

Michel Hillman – NDUS: We do work with Bank of North Dakota and I'd be happy to try to get that for you.

Chairman RaeAnn Kelsch: We will hear from Wayne now. We've heard your testimony. Committee members can now ask questions

Wayne Kutzer – Director, Department of Career and Technical Education: The fund actually goes into a separate fund used for expenses, not for salary or anything like that.

Chairman RaeAnn Kelsch: So if we make the commission independent, then those fees would go into a fund that they would be able to utilize or we could attempt to use it as a part of their ongoing expenses?

Wayne Kutzer – Director, Department of Career and Technical Education: Yes. Those refunds could be adjusted.

Chairman RaeAnn Kelsch: Is it is rule right now what we charge or statutory?

Wayne Kutzer – Director, Department of Career and Technical Education: It's in policy. It is 2,000 dollars for a new institution coming in and 750 dollars for annual renewals.

Chairman RaeAnn Kelsch: Is that in line with other states with what they charge or is it low?

Wayne Kutzer – Director, Department of Career and Technical Education: Probably low when look at the whole picture because a lot states charge per program. If an institution comes in and wants to get a new program, some states chare 750 dollars/program, we just charge 2000 dollars/institution. What happened was with this online there was a lot more demand.

Chairman RaeAnn Kelsch: Questions?

Rep. Phillip Mueller: Could you see the commission being self funded through those fees?

Wayne Kutzer – Director, Department of Career and Technical Education: The potential would be for that, but I think it would be a ways off because of number of schools. I think it would be a stretch to see the cost entirely self funded.

Rep. Mike Schatz: You said previously that this was not put into the budget. Why wasn't it put in the budget originally?

Wayne Kutzer – Director, Department of Career and Technical Education: We have been working with the university system and a number of years ago this came up but it wasn't until last year where we got together to design the bill. We put our budget in after that time frame.

Chairman RaeAnn Kelsch: Can you explain the purpose behind the amendment?

Wayne Kutzer – Director, Department of Career and Technical Education: There were federal rules made about that. Every private post-secondary institution had to have some form of governance. The exemption we have now would exempt the University of Mary, Jamestown College, and Trinity Bible College because they've been operating in the state. The new fed rules coming out will be changing all that. Another thing is there has to be an avenue for customer or student complaints.

Chairman RaeAnn Kelsch: I just wanted to make sure everyone understood that. With this amendment added to the bill, the private campuses in ND would need to be comfortable with bill once the amendments were put on.

Wayne Kutzer – Director, Department of Career and Technical Education: If a school wasn't being overseen by a state it would not be eligible for title four funding so we thought we better put that exemption in.

Chairman RaeAnn Kelsch: Questions?

Rep. David Rust: Does every state separately have to approve every institution that operates or has a presence in their state?

Wayne Kutzer – Director, Department of Career and Technical Education: The new fed rules will get closer to that. Right now every state has its own rules.

Rep. David Rust: What about some kind of regional system where colleges/universities could be approved on a regional basis and as result be accredited by all states in that region?

Wayne Kutzer – Director, Department of Career and Technical Education: It is a possibility but right now, because of all the different rules, it would take a long time to get to that point. All states are all over the board.

Rep. David Rust: It seems like such a tremendously time consuming thing and expenditure of money to have it individually approved by states when it could perhaps be done by organization coving a region. It has to be expensive for each state. I think something should be done on regional bases.

Chairman RaeAnn Kelsch: Part of this has to do with rules and reg. It would be much same if we had a regional license approval for teachers. Can't do it because each state has own regulations. It further complicates the issue by each states rules or policies. Some states might be more strict and some lenient. I was looking at your list every state has someone in charge of authorization.

Wayne Kutzer – Director, Department of Career and Technical Education: And it varies widely.

Chairman RaeAnn Kelsch: Questions ? Anyone testifying in support or opposition?

Janet Welk: I wanted to let you know the board has been working with our reservation schools. We were at Fort Berthold Community College and approved their program. We are at Sitting Bull and also at Turtle Mountain. We work hand in hand with the higher learning commission. They ask us to come in first and they come in after we've been there. The different is the standards we look at. We look at whether faculty are qualified, enough field experience for students, budgets, program content, etc. What the Higher Learning Commission asks is that we provide our report to them. As far as HB 1128, I would be very thankful to have another group looking over the entire university. Another point I have is that I do believe online education is a large part of the future. I think If we had a commission like this it would be a resource for our ND institutions.

Chairman RaeAnn Kelsch: Questions? Any other testimony? We will close the hearing on HB 1128.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1128
02/07/11
14087

☐ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will open the hearing on HB 1128 and HB 1129. Basically these are the bills that set up the process and the governance for the approval of private institutions in the state that are not currently set in stone in the state. The way it is currently being done is CTE is approving all of these and they don't feel comfortable doing the approval. Their first proposal in 1128 was to set up a new commission that would just do the approvals. In 1129 which they weren't as fond of, was CTE would continue to approve up to an associate's degree and then the Board of Higher Education would approve above that. These bills are related. We need to adopt the amendments that were offered on both bills and what those amendments do is they exclude our traditional private campuses. Currently those institutions of higher education have their own governance and are not governed by higher education. The reason we want to make sure we put those amendments on is because the way these bills are written they would take away the governance and CTE would or the Board of Higher Education would be approving those colleges. This is stemming from federal rules that are being implemented for the governance of campuses and private institutions. The problem is they didn't differentiate between private schools coming in and those private schools that are bricks and mortar in your state. We have both bills before us. My preference would be 1129. I don't think we need to create a new committee or commission for approval. This would have to go to appropriations and they have assured me there is money in both of the budgets to accommodate.

Rep. Mark Sanford: Move the amendment on HB 1128.

Vice Chair Lisa Meier: Second.

Chairman RaeAnn Kelsch: Committee discussion?

Rep. Lyle Hanson: Did we have a bill last session that would not allow for example the college to have meetings to go off the degrees in North Dakota?

Chairman RaeAnn Kelsch: We have the bill that was passed in 2005 and that was for the fake degrees. That is why they have tightened up these rules and saying there has to be somebody governing the degrees that are offered into the state. We have the amendment proposed by Wayne Kutzer. We will do a voice vote. Motion carries.

Voice vote: motion carries.

Chairman RaeAnn Kelsch: Wishes of the committee on HB 1128.

Vice Chair Lisa Meier: Move a do not pass as amended.

Rep. Mark Sanford: Second.

Chairman RaeAnn Kelsch: We will close on HB 1128.

15 YEAS 0 NAYS 0 ABSENT
as Amended

DO NOT PASS
CARRIER: Rep. Mike Schatz

FISCAL NOTE

Requested by Legislative Council
12/27/2010

Bill/Resolution No.: HB 1128

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues						
Expenditures			\$324,500		\$324,500	
Appropriations			\$324,500		\$324,500	

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill establishes a commission and 1 professional Staff FTE and 1 support staff FTE along with related operating including rental space and equipment.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 - establishment of commission and sets commission compensation at state rates. Commission would meet more frequently the first year then move to about six times a year.

Section 3 - employment of staff to carry out the duties of the commission.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Expenditures are for 1.0 professional staff FTE and 1.0 support staff FTE and related operating expenses including rental space and equipment. Cost would be higher for the first year of the biennium due upfront equipment and furnishing cost and increased number of meetings needed for the commission.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

\$324,500 is the appropriation amount requested to be placed in the ND University System budget. This amount is not in the executive budget and it would be a continuing appropriation.

Name:	Wayne Kutzer	Agency:	270 - CTE
Phone Number:	328-2259	Date Prepared:	01/07/2011

FISCAL NOTE

Requested by Legislative Council
12/27/2010

Bill/Resolution No.: HB 1128

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$20,000		\$20,000
Expenditures			\$324,500			
Appropriations			\$304,500	\$20,000	\$304,500	\$20,000

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2A. **Bill and fiscal impact summary:** *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

Bill establishes a commission and 1 professional Staff FTE and 1 support staff FTE along with related operating including rental space and equipment.

B. **Fiscal impact sections:** *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

Section 2 - establishment of commission and sets commission compensation at state rates. Commission would meet more frequently the first year then move to about six times a year.

Section 3 - employment of staff to carry out the duties of the commission.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Fees are received through the authorization process. This amount is dependant on the number of institutional authorizations. Current fees are - An initial authorization for institution \$2000, for a Career school \$1000, annual renewals are \$750 and \$500 respectively.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Expenditures are for 1.0 professional staff FTE and 1.0 support staff FTE and related operating expenses including rental space and equipment. Cost would be higher for the first year of the biennium due upfront equipment and furnishing cost and increased number of meetings needed for the commission.

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

\$304,500 is the appropriation amount requested to be placed in the ND University System budget. This amount is not in the executive budget and it would be a continuing appropriation.

Name:	Wayne Kutzer	Agency:	270 - CTE
Phone Number:	328-2259	Date Prepared:	01/07/2011

February 7, 2011

VR
2/7/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1128

Page 4, line 29, remove the overstrike over "~~Private four year institutions chartered or incorporated and operating in the state prior~~"

Page 4, remove the overstrike over lines 30 and 31

Page 5, line 1, remove the overstrike over "8."

Page 5, line 2, remove the overstrike over "9."

Page 5, line 2, remove "8."

Page 5, line 3, remove the overstrike over "10."

Page 5, line 3, remove "9."

Page 5, line 4, remove the overstrike over "11."

Page 5, line 4, remove "10."

Page 5, line 6, remove the overstrike over "12."

Page 5, line 6, remove "11."

Renumber accordingly

Date: 02-07-11
Roll Call Vote #: VOICE VOTE

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1128

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By REP. SANFORD Seconded By VICE CHAIR MEIER

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch			Rep. Hanson		
Vice Chairman Meier			Rep. Hunsakor		
Rep. Heilman			Rep. Mock		
Rep. Heller			Rep. Mueller		
Rep. Johnson					
Rep. Karls					
Rep. Rohr					
Rep. Rust					
Rep. Sanford					
Rep. Schatz					
Rep. Wall					

Total (Yes) _____ No _____

Absent _____

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

**VOICE VOTE ON AMENDMENT
MOTION CARRIES.**

Date: 02-07-11
Roll Call Vote #: _____

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1128

House EDUCATION Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☒ Do Not Pass ☒ Amended ☐ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By VICE CHAIR MEIER Seconded By REP. SANFORD

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunskor	X	
Rep. Heilman	X		Rep. Mock	X	
Rep. Heller	X		Rep. Mueller	X	
Rep. Johnson	X				
Rep. Karls	X				
Rep. Rohr	X				
Rep. Rust	X				
Rep. Sanford	X				
Rep. Schatz	X				
Rep. Wall	X				

Total (Yes) 15 No 0

Absent 0

Floor Assignment REP. SCHATZ

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1128: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO NOT PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1128 was placed on the Sixth order on the calendar.

Page 4, line 29, remove the overstrike over "~~Private four-year institutions chartered or incorporated and operating in the state prior~~"

Page 4, remove the overstrike over lines 30 and 31

Page 5, line 1, remove the overstrike over "8."

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Page 5, line 6, remove the overstrike over "12."

Page 5, line 6, remove "11."

Renumber accordingly

2011 TESTIMONY

HB 1128

TESTIMONY ATTACHMENT 1

House Education Committee
Testimony on HB 1128
January 12, 2011

Madam Chair and members of the Committee, my name is Wayne Kutzer, Director of the Department of Career and Technical Education. Since 1971, the State Board for Career and Technical Education has had, in addition to its primary responsibility for Career and Technical Education, the oversight of private postsecondary institutions as mandated in chapter 15-20.4 of the North Dakota Century Code (green handout). As noted in the Brief History document (yellow handout), this responsibility has traveled among Higher Education, the Department of Public Instruction, and for the last 40 years has been in Career and Technical Education. The oversight responsibility basically entails the following:

To review, investigate, approve or deny applications for authorization to operate in North Dakota by private colleges, universities and career schools; to handle new program requests; to handle student complaints; to respond to student requests for closed school transcripts, and related duties.

We have brought HB 1128 before you as a result of what has been happening in the world of private postsecondary institutions. In a word, it is "On-line" – on-line education has exploded. We have gone from monitoring and approving a total of eight schools to now getting requests from schools and programs nearly every week. In the last year alone, there have been 92 new program requests by authorized schools – an unprecedented number. Beyond that, we are fielding inquiries nationwide from degree granting institutions (or their legal representatives) seeking information on requirements to operate in North Dakota.

When schools and institutions submit an application for authorization to operate in North Dakota, we must review each of the programs the application contains. Consequently, if an institution wants to offer bachelor, master and doctoral programs, reviewing those programs is also part of the process. As an example, Capella University has authorization to offer 120 different bachelor, master and doctorate programs in the State, and has more applications pending. The staff time needed has increased and we simply do not have the expertise to review content of bachelor, master or doctoral level programs. Prior to the 1999 Legislative Session, the responsibility to make recommendations to the Board regarding degree programs was assigned to the "commissioner of higher education and/or his designee". But following that session, all authority was assigned to CTE, regardless of degree level.

Also in 1999, at the request of the CTE Board, the Legislature created an exemption for schools "not operating in the state", or having a physical presence, here. A physical presence is basically any instruction, testing, counseling or enrollment services taking place in our state. But in 1999, the Legislature could not have foreseen that institutions would develop a new kind of hybrid distance education program: programs that deliver theory courses on-line, but still require face to face instruction or supervision to complete the program. Examples of these programs include teaching, counseling and nursing. As discussed in yesterday's testimony on HB 1092, the institutions offering these kinds of hybrid programs must become authorized to operate by the State Board for Career and Technical Education, due to their physical presence in the state.

Examples include the five private out-of-state nursing schools we learned about in recent months. We feel, however, that nursing schools represent the tip of the iceberg. Private out of state teacher education programs, counselor education programs, allied health and others are also likely to have established a physical presence in North Dakota for similar purposes.

Beyond the singular issue of physical presence however, is the greater issue of establishing the *appropriate* level of oversight for private postsecondary institutions that want to offer instruction to the citizens of this state. HB 1128 is designed to address this issue.

The CTE Board has seen a steady increase in the number of new program requests by authorized institutions at the bachelor, master and doctoral levels. From June 30, 2009 to July 1, 2010, only four percent of the authorized programs and only four percent of the gross tuitions reported came from the private career schools. Ninety-six percent of all programs and gross tuitions reported (amounting to approximately \$20 million) are from authorized institutions conferring bachelor, master and doctorate degrees. This represents a vast change from just a few years ago, when most of the authorized programs were at the associate level or below.

Because the CTE Board is primarily concerned with education in grades 7 to 14, this responsibility is *no longer* a good fit for us. State Board members have expressed discomfort with decision-making responsibility for degree granting institutions and ask that this body consider a regulatory model that is more in line with other states. No other state has a CTE Board make decisions affecting institutions conferring bachelor, master or doctorate degrees.

Finally, there is new evidence that must be factored in by all states as they consider whether their citizens, as consumers of private higher education, have adequate protection. Enclosed for your review (white handout) is a GAO Report that has brought some disturbing new evidence to light regarding the practices of fully accredited, fully authorized private proprietary institutions. In the report, you will find that there are many institutions and schools that have engaged in deceptive practices with regard to solicitation and enrollment. Some of the schools' admissions representatives made deliberately misleading statements on student responsibility for federal student loan repayments. Some of the schools made grossly

exaggerated statements with regard to the potential earnings of graduates. What these findings suggest is that our state needs to ramp up its capability for institutional oversight. Given the results of the GAO Report, we must not only offer protection from degree and diploma mills, but from bad actors who hide behind their state approved, fully accredited status to take advantage of students who qualify for federal financial aid.

During the last year, a complaint by one student attending an authorized, accredited school resulted in a complex investigation that revealed the school was failing to provide refunds owed to students. The school pretended to be issuing refund checks to student Sallie Mae accounts, but in reality, it did not do so. It just issued paperwork that made it appear like the refunds had been made. That investigation took hundreds of hours of staff time, and will continue to do so until the last transcript has been scanned into the department's database. The school involved is now closed. But the fact remains, the department simply does not have the resources required to keep up with the steady stream of new program applications, primarily at the bachelor, master and doctoral levels; continue to provide services for students impacted by closed schools; engage in the investigations that arise as a result of student complaints, and still attend to the department's primary focus: Career and Technical Education. HB 1128 creates a commission whose sole focus is private postsecondary education, and gives decision making authority to a commission comprised of representatives of the public and private educational sectors, business, industry and other essential stakeholders.

Let me walk through the bill with you. On page one, line 15, it strikes the word "board" -- the CTE Board -- and inserts the word commission and identifies the North Dakota commission on private postsecondary education.

On page two, line 5, it removes the reference to the Director of CTE. In section 2, beginning with line 23, it lists the membership of the eight person commission, their terms and compensation as established for commissions in the state. The composition of the commission is a recommendation by the Higher Education Consumer Protection Committee, a committee represented by the public and private institutions in the state. This Committee studied North Dakota's regulatory practices, and concluded that an independent commission comprised of essential stakeholders would be the best structure with which to protect the interests of North Dakota students. The commission's proposed composition would ensure that there would be adequate expertise with which to provide oversight for programs ranging from short term certificates up through the doctorate level.

Section 3, starting at the top of page four, establishes that the commission be administered and housed by the North Dakota University System, to take advantage of the expertise found within the university system relative to college and university administration and instruction.

On the remainder of page four, the term "commission" is inserted to replace the term "board".

On the bottom of page 4, beginning with line 29, exemption #7 referring to certain institutions is deleted. There is an amendment attached that will reinstate that exemption. We have determined that this exemption should remain as is, for the time being. When we initially proposed that the exemption be removed, we were attempting to respond proactively to new federal rulemaking, which requires that schools participating in Title IV funding have oversight by the State. Specifically, states must have a process to review and act upon student complaints concerning an institution.

Because there is more clarifying information forthcoming from the federal government regarding the new rules, and because schools have been given a grace period to address concerns arising from the rules, we have chosen to keep the exemption intact. We have been in contact with a representative from the University of Mary and Jamestown College and will continue to work with them as we move forward.

On the rest of the pages of the bill, the only change is replacing the word, “board” with “commission”, and on the last page, it updates the section on board resignations by inserting the “North Dakota commission on private postsecondary education” into the list of commissions.

Assigning oversight responsibilities to an independent commission, and housing the commission within the university system structure is not unique. In the blue handout, there is a list of regulatory agencies in other states. North Dakota is the only one where the responsibility lies with the Department of Career and Technical Education.

It should be noted that the university system is already involved in the business of program approval, as they currently serve as the State Approving Agency for the US Department of Veterans Affairs.

There is a fiscal note attached for \$324,500 which will provide for 1.0 professional staff FTE and 1.0 support staff FTE and related operating for the commission. Although this is a substantial amount of money, it is important to keep in mind that it will support a level of oversight appropriate to the millions of dollars in tuition our citizens are spending on degrees from private institutions.

I ask that you approve HB 1128, and I would be glad to answer any questions.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1128

Page 4, line 29, remove the overstrike over "~~Private four-year institutions chartered or incorporated and operating in the state prior~~"

Page 4, line 30, remove the overstrike over "~~to July 1, 1977, so long as the institutions retain accreditation by national or regional~~"

Page 4, line 31, remove the overstrike over "~~accrediting agencies recognized by the United States office of education.~~"

Page 5, line 1, remove the overstrike over "~~8.~~"

Page 5, line 2, remove the overstrike over "~~9.~~", and remove "8."

Page 5, line 3, remove the overstrike over "~~10.~~", and remove "9."

Page 5, line 4, remove the overstrike over "~~11.~~", and remove "10."

Page 5, line 6, remove the overstrike over "~~12.~~", and remove "11."

Renumber accordingly

CHAPTER 15-20.4

POSTSECONDARY EDUCATIONAL INSTITUTIONS

15-20.4-01. Definitions. As used in this chapter:

1. "Authorization to operate" or like term means approval of the board to operate or to contract to operate a postsecondary educational institution in this state.
2. "Board" means the state board for career and technical education.
3. "Education" or "educational services" or like term includes any class, course, or program of training, instruction, or study.
4. "Educational credentials" means degrees, diplomas, certificates, transcripts, reports, documents, or letters of designation, marks, appellations, series of letters, numbers, or words which signify, purport, or are generally taken to signify enrollment, attendance, progress, or satisfactory completion of the requirements or prerequisites for education at a postsecondary educational institution operating in this state.
5. "Entity" includes any company, firm, society, association, partnership, corporation, limited liability company, and trust.
6. "Executive officer" means the director of career and technical education.
7. "Postsecondary educational institution" includes an academic, vocational, technical, home study, business, professional, or other school, college, or university, or other organization or person, operating in this state, offering educational credentials, or offering instruction or educational services (primarily to persons who have completed or terminated their secondary education or who are beyond the age of compulsory high school attendance) for attainment of educational, professional, or vocational objectives.
8. "To grant" includes awarding, selling, conferring, bestowing, or giving.
9. "To offer" includes, in addition to its usual meanings, advertising, publicizing, soliciting, or encouraging any person, directly or indirectly, in any form, to perform the act described.
10. "To operate" an educational institution, or like term, means to establish, keep, or maintain any facility or location in this state where, from, or through which, education is offered or given, or educational credentials are offered or granted, and includes contracting with any person, group, or entity to perform any such act.

15-20.4-02. Exemptions. The following education and educational institutions are exempted from the provisions of this chapter:

1. Institutions exclusively offering instruction at any or all levels from preschool through the twelfth grade.
2. Education sponsored by a bona fide trade, business, professional, or fraternal organization, so recognized by the board, solely for that organization's membership, or offered on a no-fee basis.
3. Education solely avocational or recreational in nature, as determined by the board, and institutions offering such education exclusively.
4. Certain education provided through short-term programs as determined by the board.

5. Education offered by charitable institutions, organizations, or agencies, so recognized by the board, provided the education is not advertised or promoted as leading toward educational credentials.
6. Postsecondary educational institutions established, operated, and governed by this or any other state or its political subdivisions, as determined by the board and any educational consortium that includes one or more of the institutions.
7. Private four-year institutions chartered or incorporated and operating in the state prior to July 1, 1977, so long as the institutions retain accreditation by national or regional accrediting agencies recognized by the United States office of education.
8. Schools of barbering regulated under chapter 43-04.
9. Schools of cosmetology regulated under chapter 43-11.
10. Schools of nursing regulated under chapter 43-12.1.
11. Native American colleges operating in this state, established by federally recognized Indian tribes.
12. Postsecondary educational institutions not operating in this state.

15-20.4-02.1. Voluntary application for authorization to operate. Although a postsecondary educational institution not operating in this state is exempt from this chapter by section 15-20.4-02, the institution may subject itself to the requirements of this chapter by applying for and being awarded an authorization to operate by the board. An authorization to operate, as applied to a postsecondary educational institution not operating in this state, means approval of the board to offer to students in this state educational services leading to educational credentials.

15-20.4-03. Board powers and duties. The board has, in addition to the powers and duties now vested in it by law, the following powers and duties to:

1. Establish and require compliance with minimum standards and criteria for postsecondary educational institutions under this chapter. The standards and criteria must include quality of education, ethical and business practices, health and safety and fiscal responsibility, which applicants for authorization to operate shall meet:
 - a. Before such authorization may be issued; and
 - b. To continue such authorization in effect.

The criteria and standards developed will effectuate the purposes of this chapter, but will not unreasonably hinder legitimate educational innovation.

2. Prescribe forms and conditions for, receive, investigate as it may deem necessary, and act upon applications for authorization to operate postsecondary educational institutions.
3. Maintain a list of postsecondary educational institutions authorized to operate in this state under the provisions of this chapter. The list must be available for the information of the public.
4. Negotiate and enter into interstate reciprocity agreements with similar agencies in other states, if in the judgment of the board such agreements are or will be helpful in effectuating the purposes of this chapter; provided, however, that nothing contained in any such reciprocity agreement may be construed as limiting the board's powers,

duties, and responsibilities with respect to independently investigating or acting upon any application for authorization to operate, or any application for renewal of such authorization to operate, a postsecondary educational institution, or with respect to the enforcement of any provision of this chapter, or any of the rules or regulations promulgated hereunder.

5. Receive and cause to be maintained as a permanent file, copies of academic records specified by the board in the event any postsecondary educational institution required to have an authorization to operate under this chapter proposes to discontinue its operation.
6. Promulgate such rules, regulations, and procedures necessary or appropriate for the conduct of its work and the implementation of this chapter, and to hold such hearings as it may deem advisable in accordance with chapter 28-32 or as required by law in developing such rules, regulations, and procedures, or in aid of any investigation or inquiry.
7. Investigate as it may deem necessary, on its own initiative or in response to any complaint lodged with it, any person, group, or entity subject to, or reasonably believed by the board to be subject to, the jurisdiction of this chapter; and in connection therewith to subpoena any persons, books, records, or documents pertaining to such investigation. The board may require answers in writing under oath to questions propounded by the board and may administer an oath or affirmation to any person in connection with any investigation. The board may, after hearing, revoke or suspend authorizations to operate. Subpoenas issued by the board are enforceable by any district court.
8. Require fees and bonds from postsecondary educational institutions in such sums and under such conditions as it may establish; provided, that fees established may not exceed the reasonable cost of the service being provided.
9. Exercise other powers and duties implied but not enumerated in this section but in conformity with the provisions of this chapter which, in the judgment of the board, are necessary in order to carry out the provisions of this chapter.

15-20.4-03.1. Authorization fee fund. There is created an authorization fee fund into which fees provided to the board upon application for authorization to operate a postsecondary educational institution under section 15-20.4-03 must be deposited. The fund and interest earned on the fund may be spent by the board pursuant to legislative appropriation exclusively to carry out the intent and purpose of this chapter. This fund is not subject to section 54-44.1-11.

15-20.4-04. Minimum standards - Exceptions.

1. All postsecondary educational institutions must be accredited by national or regional accrediting agencies recognized by the United States department of education. The board may additionally require such further evidence and make such further investigation as in its judgment may be necessary. Any postsecondary educational institution operating in this state seeking its first authorization to operate may be issued a provisional authorization to operate on an annual basis until the institution becomes eligible for accreditation by a recognized accrediting agency. Institutions issued a provisional authorization to operate must demonstrate a substantial good-faith showing of progress toward such status. Only upon accreditation shall an institution become eligible for a regular authorization to operate.
2. This section does not apply to postsecondary educational institutions operating in this state that do not grant degrees and that offer mainly hands-on training in low census occupations, as determined by the board. "Degree" as used in this subsection means a document that provides evidence or demonstrates completion

of a course of instruction that results in the attainment of a rank or level of associate or higher.

15-20.4-05. Prohibition. A person, group, or entity of whatever kind, alone or in concert with others, may not:

1. Operate, in this state, a postsecondary educational institution not exempted from the provisions of this chapter, unless said institution has a currently valid authorization to operate issued pursuant to the provisions of this chapter.
2. Instruct or educate, or offer to instruct or educate, including advertising or soliciting for such purpose, enroll or offer to enroll, contract or offer to contract with any person for such purpose, or award any educational credential, or contract with any institution or party to perform any such act, at a facility or location in this state unless such person, group, or entity observes and is in compliance with the minimum standards and criteria established by the board pursuant to subsection 1 of section 15-20.4-03, and the rules and regulations adopted by the board pursuant to subsection 6 of section 15-20.4-03.
3. Use the term "university", "institute", or "college" without authorization to do so from the board.
4. Grant, or offer to grant, educational credentials, without authorization to do so from the board.

15-20.4-06. Refund of tuition fees:

1. Postsecondary educational institutions shall refund tuition and other charges, other than a reasonable application fee, when written notice of cancellation is given by the student in accordance with the following schedule:
 - a. When notice is received prior to, or within seven days after completion of the first day of instruction, or after receipt of the first correspondence lesson by the institution, all tuition and other charges must be refunded to the student.
 - b. When notice is received prior to, or within thirty days after completion of the first day of instruction, or prior to the completion of one-fourth of the educational services, all tuition and other charges except twenty-five percent thereof must be refunded to the student.
 - c. When notice is received upon or after completion of one-fourth of the educational services, but prior to the completion of one-half of the educational services, all tuition and other charges except fifty percent thereof must be refunded to the student.
 - d. When notice is received upon or after the completion of fifty percent of the educational services, no tuition or other charges may be refunded to the student.
2. The provisions of this section do not prejudice the right of any student to recovery in an action against any postsecondary educational institution for breach of contract or fraud.
3. A postsecondary educational institution may implement a refund schedule that deviates from subsection 1 if the proposed refund schedule is more favorable to the student than the schedule described in subsection 1.

15-20.4-07. Negotiation of promissory instruments. Repealed by S.L. 2009, ch. 161,

§ 7.

15-20.4-08. Cancellation of contract for instrument. Any person has the right for any cause to rescind, revoke, or cancel a contract for educational services at any postsecondary educational institution within seven days after entering into such contract without incurring any tort or contract liability. In such event, the postsecondary educational institution may retain the amount of tuition and other charges as set forth in subsection 1 of section 15-20.4-06.

15-20.4-09. Remedy of defrauded student - Treble damages. Any person defrauded by any advertisement or circular issued by a postsecondary educational institution, or by any person who sells textbooks to the institution or to the pupils thereof, may recover from such institution or person three times the amount paid.

15-20.4-10. Board review. Any person aggrieved by a decision of the board respecting denial or revocation of an authorization to operate, or the placing of conditions thereon, whether on initial application or on application for renewal, and any person aggrieved by the imposition of a penalty by the board under section 15-20.4-12, has the right to a hearing and review of such decision by the board and to judicial review in accordance with chapter 28-32.

15-20.4-11. Violations - Civil penalty. Any person, group, or entity, or any owner, officer, or employee thereof, who violates the provisions of section 15-20.4-05, or who fails or refuses to deposit with the board the records required by the board under this chapter, is subject to a civil penalty not to exceed one hundred dollars for each violation. Each day's failure to comply with the provisions of said sections is a separate violation. Such fine may be imposed by the board in an administrative proceeding or by any court of competent jurisdiction.

15-20.4-12. Violations - Criminal penalty. Any person, group, or entity, or any owner, officer, or employee thereof, who willfully violates the provisions of section 15-20.4-05, or who willfully fails or refuses to deposit with the board the records required by the board under this chapter, is guilty of a class B misdemeanor. The criminal sanctions may be imposed by a court of competent jurisdiction in an action brought by the attorney general of this state or a state's attorney pursuant to section 15-20.4-14.

15-20.4-13. Jurisdiction of courts - Service of process. Any postsecondary educational institution not exempt from this chapter, which has a place of business in this state, and which instructs or educates, or offers to instruct or educate, enrolls or offers to enroll, or contracts or offers to contract, to provide instructional or educational services in this state, whether such instruction or services are provided in person or by correspondence, to a resident of this state, or which offers to award or awards any educational credentials to a resident of this state, submits such institution, and if a natural person, the person's personal representative, to the jurisdiction of the courts of this state, concerning any claim for relief arising therefrom, and for the purpose of enforcement of this chapter by injunction pursuant to section 15-20.4-14. Service of process upon any such institution subject to the jurisdiction of the courts of this state may be made by personally serving the summons upon the defendant within or outside this state, in the manner prescribed by the North Dakota Rules of Civil Procedure, with the same force and effect as if the summons had been personally served within this state. Nothing contained in this section limits or affects the right to serve any process as prescribed by the North Dakota Rules of Civil Procedure.

15-20.4-14. Enforcement - Injunction.

1. The attorney general of this state, or the state's attorney of any county in which a postsecondary educational institution is found, at the request of the board or on the attorney general's own motion, may bring any appropriate action or proceeding (including injunctive proceedings, or criminal proceedings pursuant to section 15-20.4-12) in any court of competent jurisdiction for the enforcement of the provisions of this chapter.
2. Whenever it appears to the board that any person, group, or entity is, is about to, or has been violating any of the provisions of this chapter or any of the lawful rules, regulations, or orders of the board, the board may, on its own motion or on the

written complaint of any person, file a petition for injunction in the name of the board in any court of competent jurisdiction in this state against such person, group, or entity, for the purpose of enjoining such violation or for an order directing compliance with the provisions of this chapter, and all rules, regulations, and orders issued hereunder. It is not necessary that the board allege or prove that it has no adequate remedy at law. The right of injunction provided in this section is in addition to any other legal remedy which the board has, and is in addition to any right of criminal prosecution provided by law; provided, however, the board may not obtain a temporary restraining order without notice to the person, group, or entity affected. The existence of board action with respect to alleged violations of this chapter does not operate as a bar to an action for injunctive relief pursuant to this section.

15-20.4-15. Unlawful to issue, manufacture, or use false academic degrees - Penalty.

1. It is unlawful for a person to knowingly advertise to sell, issue, or manufacture a false academic degree. A person that violates this subsection is guilty of a class C felony. This subsection does not apply to a newspaper, television or radio station, or other commercial medium that is not the source of the advertisement.
2. a. It is unlawful for an individual to knowingly use or claim to have a false academic degree:
 - (1) To obtain employment;
 - (2) To obtain a promotion or higher compensation in employment;
 - (3) To obtain admission to an institution of higher learning; or
 - (4) In connection with any business, trade, profession, or occupation.b. An individual who violates this subsection is guilty of a class A misdemeanor.
3. As used in this section, "false academic degree" means a document such as a degree or certification of completion of a degree, coursework, or degree credit, including a transcript, that provides evidence or demonstrates completion of a course of instruction or coursework that results in the attainment of a rank or level of associate or higher which is issued by a person that is not a duly authorized institution of higher learning.
4. As used in this section, "duly authorized institution of higher learning" means an institution that:
 - a. Has accreditation recognized by the United States secretary of education or has the foreign equivalent of such accreditation;
 - b. Has an authorization to operate under this chapter;
 - c. Operates in this state and is exempt from this chapter under section 15-20.4-02;
 - d. Does not operate in this state and is:
 - (1) Licensed by the appropriate state agency; and
 - (2) An active applicant for accreditation by an accrediting body recognized by the United States secretary of education; or

- e. Has been found by the state board for career and technical education to meet standards of academic quality comparable to those of an institution located in the United States that has accreditation recognized by the United States secretary of education to offer degrees of the type and level claimed.

15-20.4-16. Unlawful to use degree or certificate when coursework not completed - Penalty.

1. An individual may not knowingly use a degree, certificate, diploma, transcript, or other document purporting to indicate that the individual has completed an organized program of study or completed courses when the individual has not completed the organized program of study or the courses as indicated on the degree, certificate, diploma, transcript, or document:
 - a. To obtain employment;
 - b. To obtain a promotion or higher compensation in employment;
 - c. To obtain admission to an institution of higher learning; or
 - d. In connection with any business, trade, profession, or occupation.
2. An individual who violates this section is guilty of a class A misdemeanor.

15-20.4-17. Consumer protection - False academic degrees. The state board for career and technical education, in collaboration with the North Dakota university system, shall provide via internet web sites, information to protect students, businesses, and others from persons that issue, manufacture, or use false academic degrees.

15-20.4-18. Unlawful to operate accreditation mill - Penalty.

1. A person may not operate an accreditation mill in North Dakota.
2. As used in this section:
 - a. "Accreditation mill" means an accrediting entity that is not recognized by the United States department of education or the state board for career and technical education.
 - b. "Operate" includes to use an address, telephone number, facsimile number, or other contact point located in North Dakota.
3. A person that violates this section is guilty of a class C felony.

Brief Legislative History: Private Postsecondary Institutions

1943: NDCC ch15-50: Trade and Correspondence Schools

Established dual regulatory roles between Voc Ed and Higher Ed

Empowered the Commissioner of the Board of Higher Ed to issue licenses to Trade and Correspondence Schools, and to issue permits to solicitors

Empowered the State Board for Vocational Education to make rules and regulations prescribing standards for private trade and correspondence schools

1959: House Bill 820, amended legislation pertaining to trade and correspondence schools

Removed authority from the Commissioner of the Board of Higher Ed; delegated authority to the "Executive Officer"

Defined "Executive Officer" as "the officer who directs the policy making division of vocational education. The superintendent of public instruction is by law the executive officer for vocational education."

1971: House Bill 1361: Regulating Trade and Correspondence Schools

Defined "Executive Officer" as the officer who directs the policy making of the division of vocational education. The director of vocational education is by board appointment the executive officer for vocational education." The director of vocational education was empowered to license schools and issue permits to solicitors.

Expanded the types of educational institutions to include "private trade, industrial, vocational, technical, business, and correspondence schools."

1977: Legislative Council Report: Committee on Higher Education

Recommendations:

1. Creation of a Postsecondary Education Commission with representation by both the public and private education sectors;
2. Development of a bill draft: The Postsecondary Educational Authorization Act to prevent academic and vocational diploma mills from operating in ND.

In the report, the Board of Higher Education staff recommended the creation of such legislation based upon model legislation offered by the Education Commission of the States and the American Council on Education, concerning the needs for consumer protection in postsecondary education. The staff acknowledged that North Dakota had provided for licensure of proprietary institutions, "but there is no law providing for licensing or recognizing academic institutions in North Dakota. (emphasis added).

"Under the bill, Chapter 15-50, which presently provides for licensing of private trade, industrial, vocational, technical, business, and correspondence schools, would be repealed, and a comprehensive Act modeled after suggested state legislation would regulate academic, vocational, technical, home study, business and profession schools offering educational credentials or instruction or educational services on a postsecondary level for the attainment of educational, professional, or vocational objectives." (emphasis added)

"The Board of Vocational Education would have the power to establish and require applicant compliance with minimum standards and criteria... "

"Accreditation by national or regional accrediting agencies recognized by the United States Office of Education would be required of all postsecondary educational institutions... No person, agent, or organization would be allowed to operate an institution not exempted from the Act unless the institution has a currently valid authorization to operate, nor could it offer instruction or grant educational credentials unless the institution has an agent with a valid agent's permit."

1977: SB 2029, codified as ch 15-20.3: Establishment of Postsecondary Education Commission

The Postsecondary Education Commission "shall consist of the state board of higher education, the state board of vocational education, and three additional members to be appointed by the governor with the consent of the senate. Of the appointed members, one shall represent the governing boards of junior colleges, one shall represent the governing boards of four-year colleges, and one shall represent the governing boards of the proprietary institutions. Powers and duties of the commission included:

1. To coordinate comprehensive planning of postsecondary education as specified in the 1972 amendments to Title XII of the Higher Ed Act of 1965, etc.
2. To conduct comprehensive inventories of and studies with respect to all public and private postsecondary educational resources in the state, including planning necessary for such resources to be better coordinated, improved, expanded, or altered so that all persons within the state who desire and can benefit from postsecondary education may have the authority.
3. To establish committees or task forces to "make studies, conduct surveys, submit recommendations, or otherwise contribute the best available expertise from the institutions, interest groups, minorities, and segments of the society most concerned with a particular aspect of the commission's work."

1977: Passage of HB 1031, Postsecondary Educational Institutions

Defined "Board" as the State Board for Vocational and Technical Ed and designated the Executive Officer as the Director of Vocational and Technical Education

1983: Repeal of NDCC 15-20.3 – the Postsecondary Education Commission

1999: HB 1151: Removed all statutory language pertaining to agents and solicitors; exempted "postsecondary educational institutions not operating in this state" (distance ed institutions) from regulation.

2003: Legislature added added sections 15 and 16 to NDCC 15-20.4 outlawing the manufacture, issuance or use of false academic credentials. Assigned the felony penalty to issuance and manufacture, misdemeanor penalty to use.

2009: Legislature outlawed the advertising of false credential in North Dakota and the operation of accreditation mills in the state, and assigned the felony penalty.

 GAO

Testimony
Before the Committee on Health,
Education, Labor, and Pensions, U.S.
Senate

For Release on Delivery
Expected at 10:00 a.m. EDT
Wednesday, August 4, 2010

FOR-PROFIT COLLEGES

Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices

Statement of Gregory D. Kutz, Managing Director
Forensic Audits and Special Investigations



GAO

Accountability * Integrity * Reliability



GAO Highlights

Highlights of GAO-10-948T, a testimony before the Committee on Health, Education, Labor, and Pensions, U.S. Senate

Why GAO Did This Study

Enrollment in for-profit colleges has grown from about 365,000 students to almost 1.8 million in the last several years. These colleges offer degrees and certifications in programs ranging from business administration to cosmetology. In 2009, students at for-profit colleges received more than \$4 billion in Pell Grants and more than \$20 billion in federal loans provided by the Department of Education (Education). GAO was asked to 1) conduct undercover testing to determine if for-profit colleges' representatives engaged in fraudulent, deceptive, or otherwise questionable marketing practices, and 2) compare the tuitions of the for-profit colleges tested with those of other colleges in the same geographic region.

To conduct this investigation, GAO investigators posing as prospective students applied for admissions at 15 for-profit colleges in 6 states and Washington, D.C.. The colleges were selected based on several factors, including those that the Department of Education reported received 89 percent or more of their revenue from federal student aid. GAO also entered information on four fictitious prospective students into education search Web sites to determine what type of follow-up contact resulted from an inquiry. GAO compared tuition for the 15 for-profit colleges tested with tuition for the same programs at other colleges located in the same geographic areas. Results of the undercover tests and tuition comparisons cannot be projected to all for-profit colleges.

View GAO-10-948T or key components. For more information, contact Gregory Kutz at (202) 512-6722 or kutzg@gao.gov.

FOR-PROFIT COLLEGES

Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices

What GAO Found

Undercover tests at 15 for-profit colleges found that 4 colleges encouraged fraudulent practices and that all 15 made deceptive or otherwise questionable statements to GAO's undercover applicants. Four undercover applicants were encouraged by college personnel to falsify their financial aid forms to qualify for federal aid—for example, one admissions representative told an applicant to fraudulently remove \$250,000 in savings. Other college representatives exaggerated undercover applicants' potential salary after graduation and failed to provide clear information about the college's program duration, costs, or graduation rate despite federal regulations requiring them to do so. For example, staff commonly told GAO's applicants they would attend classes for 12 months a year, but stated the annual cost of attendance for 9 months of classes, misleading applicants about the total cost of tuition. Admissions staff used other deceptive practices, such as pressuring applicants to sign a contract for enrollment before allowing them to speak to a financial advisor about program cost and financing options. However, in some instances, undercover applicants were provided accurate and helpful information by college personnel, such as not to borrow more money than necessary.

Fraudulent, Deceptive, and Otherwise Questionable Practices

Degree/certificate, location	Sales and Marketing Practice
Certificate Program – California	Undercover applicant was encouraged by a college representative to change federal aid forms to falsely increase the number of dependents in the household in order to qualify for grants.
Associate's Degree – Florida	Undercover applicant was falsely told that the college was accredited by the same organization that accredits Harvard and the University of Florida.
Certificate Program – Washington, D.C.	Admissions representative said that barbers can earn up to \$150,000 to \$250,000 a year, an exceptional figure for the industry. The Bureau of Labor Statistics reports that 90 percent of barbers make less than \$43,000 a year.
Certificate Program – Florida	Admission representative told an undercover applicant that student loans were not like a car payment and that no one would "come after" the applicant if she did not pay back her loans.

Source: GAO

In addition, GAO's four fictitious prospective students received numerous, repetitive calls from for-profit colleges attempting to recruit the students when they registered with Web sites designed to link for-profit colleges with prospective students. Once registered, GAO's prospective students began receiving calls within 5 minutes. One fictitious prospective student received more than 180 phone calls in a month. Calls were received at all hours of the day, as late as 11 p.m. To see video clips of undercover applications and to hear voicemail messages from for-profit college recruiters, see <http://www.gao.gov/products/GAO-10-948T>.

Programs at the for-profit colleges GAO tested cost substantially more for associate's degrees and certificates than comparable degrees and certificates at public colleges nearby. A student interested in a massage therapy certificate costing \$14,000 at a for-profit college was told that the program was a good value. However the same certificate from a local community college cost \$520. Costs at private nonprofit colleges were more comparable when similar degrees were offered.

United States Government Accountability Office

Mr. Chairman and Members of the Committee:

Thank you for the opportunity to discuss our investigation into fraudulent, deceptive, or otherwise questionable sales and marketing practices in the for-profit college industry.¹ Across the nation, about 2,000 for-profit colleges eligible to receive federal student aid offer certifications and degrees in subjects such as business administration, medical billing, psychology, and cosmetology. Enrollment in such colleges has grown far faster than traditional higher-education institutions. The for-profit colleges range from small, privately owned colleges to colleges owned and operated by publicly traded corporations. Fourteen such corporations, worth more than \$26 billion as of July 2010,² have a total enrollment of 1.4 million students. With 443,000 students, one for-profit college is one of the largest higher-education systems in the country—enrolling only 20,000 students fewer than the State University of New York.

The Department of Education's Office of Federal Student Aid manages and administers billions of dollars in student financial assistance programs under Title IV of the Higher Education Act of 1965, as amended. These programs include, among others, the William D. Ford Federal Direct Loan Program (Direct Loans), the Federal Pell Grant Program, and campus-based aid programs.³ Grants do not have to be repaid by students, while loans must be repaid whether or not a student completes a degree program. Students may be eligible for "subsidized" loans or "unsubsidized" loans. For unsubsidized loans, interest begins to accrue on the loan as soon as the loan is taken out by the student (i.e. while attending classes).

¹For-profit colleges are institutions of post-secondary education that are privately-owned or owned by a publicly traded company and whose net earnings can benefit a shareholder or individual. In this report, we use the term "college" to refer to all of those institutions of post-secondary education that are eligible for funds under Title IV of the Higher Education Act of 1965, as amended. This term thus includes public and private nonprofit institutions, proprietary or for-profit institutions, and post-secondary vocational institutions.

²\$26 billion is the aggregate market capitalization of the 14 publicly traded corporations on July 14, 2010. In addition, there is a 15th company that operates for-profit colleges; however, the parent company is involved in other industries; therefore, we are unable to separate its market capitalization for only the for-profit college line of business, and its value is not included in this calculation.

³The Federal Supplemental Educational Opportunity Grant (FSEOG), Federal Work-Study (FWS), and Federal Perkins Loan programs are called campus-based programs and are administered directly by the financial aid office at each participating college. As of July 1, 2010 new federal student loans that are not part of the campus-based programs will come directly from the Department of Education under the Direct Loan program.

For subsidized loans, interest does not accrue while a student is in college. Colleges received \$105 billion in Title IV funding for the 2008-2009 school year—of which approximately 23 percent or \$24 billion went to for-profit colleges. Because of the billions of dollars in federal grants and loans utilized by students attending for-profit colleges, you asked us to (1) conduct undercover testing to determine if for-profit college representatives engaged in fraudulent, deceptive, or otherwise questionable marketing practices, and (2) compare the cost of attending for-profit colleges tested with the cost of attending nonprofit colleges in the same geographic region.

To determine whether for-profit college representatives engaged in fraudulent, deceptive, or otherwise questionable sales and marketing practices, we investigated a nonrepresentative selection of 15 for-profit colleges located in Arizona, California, Florida, Illinois, Pennsylvania, Texas, and Washington, D.C. We chose colleges based on several factors in order to test for-profit colleges offering a variety of educational services with varying corporate sizes and structures located across the country. Factors included whether a college received 89 percent or more of total revenue from federal student aid according to Department of Education (Education) data or was located in a state that was among the top 10 recipients of Title IV funding. We also chose a mix of privately held or publicly traded for-profit colleges. We reviewed Federal Trade Commission (FTC) statutes and regulations regarding unfair and deceptive marketing practices and Education statutes and regulations regarding what information postsecondary colleges are required to provide to students upon request and what constitutes substantial misrepresentation of services. During our undercover tests we attempted to identify whether colleges met these regulatory requirements, but we were not able to test all regulatory requirements in all tests.

Using fictitious identities, we posed as potential students to meet with the colleges' admissions and financial aid representatives and inquire about certificate programs, associate's degrees, and bachelor's degrees.⁴ We inquired about one degree type and one major—such as cosmetology, massage therapy, construction management, or elementary education—at each college. We tested each college twice—once posing as a prospective student with an income low enough to qualify for federal grants and

⁴A certificate program allows a student to earn a college level credential in a particular field without earning a degree.

subsidized student loans, and once as a prospective student with higher income and assets to qualify the student only for certain unsubsidized loans.⁶ Our undercover applicants were ineligible for other types of federal postsecondary education assistance programs such as benefits available under the Post-9/11 Veterans Educational Assistance Act of 2008 (commonly referred to as "the Post-9/11 G.I. Bill"). We used fabricated documentation, such as tax returns, created with publicly available hardware, software and materials, and the Free Application for Federal Student Aid (FAFSA)—the form used by virtually all 2- and 4-year colleges, universities, and career colleges for awarding federal student aid—during our in-person meetings. In addition, using additional bogus identities, investigators posing as four prospective students filled out forms on two Web sites that ask questions about students' academic interests, match them to colleges with relevant programs, and provide the students' information to colleges or the colleges' outsourced calling center for follow-up about enrollment. Two students expressed interest in a culinary arts degree, and two other students expressed interest in a business administration degree. We filled out information on two Web sites with these fictitious prospective students' contact information and educational interests in order to document the type and frequency of contact the fictitious prospective students would receive. We then monitored the phone calls and voicemails received.

To compare the cost of attending for-profit colleges with that of nonprofit colleges, we used Education information to select public and private nonprofit colleges located in the same geographic areas as the 15 for-profit colleges we visited. We compared tuition rates for the same type of degree or certificate between the for-profit and nonprofit colleges. For the 15 for-profit colleges we visited, we used information obtained from campus representatives to determine tuition at these programs. For the nonprofit colleges, we obtained information from their Web sites or, when not available publicly, from campus representatives. Not all nonprofit colleges offered similar degrees, specifically when comparing associate's degrees and certificate programs. We cannot project the results of our undercover tests or cost comparisons to other for-profit colleges.

⁶Regardless of income and assets, all eligible students attending a Title IV college are eligible to receive unsubsidized federal loans. The maximum amount of the unsubsidized loan ranges from \$2,000 to \$12,000 per year, depending on the student's grade level and on whether the student is considered "dependent" or "independent" from his or her parents or guardians.

We plan to refer cases of school officials encouraging fraud and engaging in deceptive practices to Education's Office of Inspector General, where appropriate. Our investigative work, conducted from May 2010 through July 2010, was performed in accordance with standards prescribed by the Council of the Inspectors General on Integrity and Efficiency.

Background

In recent years, the scale and scope of for-profit colleges have changed considerably. Traditionally focused on certificate and programs ranging from cosmetology to medical assistance and business administration, for-profit institutions have expanded their offerings to include bachelor's, master's, and doctoral level programs. Both the certificate and degree programs provide students with training for careers in a variety of fields. Proponents of for-profit colleges argue that they offer certain flexibilities that traditional universities cannot, such as, online courses, flexible meeting times, and year-round courses. Moreover, for-profit colleges often have open admissions policies to accept any student who applies.

Currently, according to Education about 2,000 for-profit colleges participate in Title IV programs and in the 2008–2009 school year, for-profit colleges received approximately \$24 billion in Title IV funds. Students can only receive Title IV funds when they attend colleges approved by Education to participate in the Title IV program.

Title IV Program Eligibility Criteria

The Higher Education Act of 1965, as amended, provides that a variety of institutions of higher education are eligible to participate in Title IV programs, including:

- Public institutions—Institutions operated and funded by state or local governments, which include state universities and community colleges.
- Private nonprofit institutions—Institutions owned and operated by nonprofit organizations whose net earnings do not benefit any shareholder or individual. These institutions are eligible for tax-deductible contributions in accordance with the Internal Revenue code (26 U.S.C. § 501(c)(3)).
- For-profit institutions—Institutions that are privately owned or owned by a publicly traded company and whose net earnings can benefit a shareholder or individual.

Colleges must meet certain requirements to receive Title IV funds. While full requirements differ depending on the type of college, most colleges are

required to: be authorized or licensed by the state in which it is located to provide higher education; provide at least one eligible program that provides an associate's degree or higher, or provides training to students for employment in a recognized occupation; and be accredited by an accrediting agency recognized by the Secretary of Education. Moreover, for-profit colleges must enter a "program participation agreement" with Education that requires the school to derive not less than 10 percent of revenues from sources other than Title IV funds and certain other federal programs (known as the "90/10 Rule"). Student eligibility for grants and subsidized student loans is based on student financial need. In addition, in order for a student to be eligible for Title IV funds, the college must ensure that the student meets the following requirements, among others: has a high school diploma, a General Education Development certification, or passes an ability-to-benefit test approved by Education, or completes a secondary school education in a home school setting recognized as such under state law; is working toward a degree or certificate in an eligible program; and is maintaining satisfactory academic progress once in college.⁶

Defaults on Student Loans

In August 2009, GAO reported that in the repayment period, students who attended for-profit colleges were more likely to default on federal student loans than were students from other colleges.⁷ When students do not make payments on their federal loans and the loans are in default, the federal government and taxpayers assume nearly all the risk and are left with the costs. For example, in the Direct Loan program, the federal government and taxpayers pick up 100 percent of the unpaid principal on defaulted loans. In addition, students who default are also at risk of facing a number of personal and financial burdens. For example, defaulted loans will appear on the student's credit record, which may make it more difficult to obtain an auto loan, mortgage, or credit card. Students will also be ineligible for assistance under most federal loan programs and may not receive any additional Title IV federal student aid until the loan is repaid in full. Furthermore, Education can refer defaulted student loan debts to the Department of Treasury to offset any federal or state income tax refunds

⁶GAO previously investigated certain schools' use of ability-to-benefit tests. For more information, see GAO, *PROPRIETARY SCHOOLS: Stronger Department of Education Oversight Needed to Help Ensure Only Eligible Students Receive Federal Student Aid*, GAO-09-600 (Washington, D.C.: August 17, 2009).

⁷GAO-09-600.

due to the borrower to repay the defaulted loan. In addition, Education may require employers who employ individuals who have defaulted on a student loan to deduct 15 percent of the borrower's disposable pay toward repayment of the debt. Garnishment may continue until the entire balance of the outstanding loan is paid.

College Disclosure Requirements

In order to be an educational institution that is eligible to receive Title IV funds, Education statutes and regulations require that each institution make certain information readily available upon request to enrolled and prospective students.⁸ Institutions may satisfy their disclosure requirements by posting the information on their Internet Web sites. Information to be provided includes: tuition, fees, and other estimated costs; the institution's refund policy; the requirements and procedures for withdrawing from the institution; a summary of the requirements for the return of Title IV grant or loan assistance funds; the institution's accreditation information; and the institution's completion or graduation rate. If a college substantially misrepresents information to students, a fine of no more than \$25,000 may be imposed for each violation or misrepresentation and their Title IV eligibility status may be suspended or terminated.⁹ In addition, the FTC prohibits "unfair methods of competition" and "unfair or deceptive acts or practices" that affect interstate commerce.

⁸20 U.S.C. § 1092 and 34 C.F.R. §§ 668.41 - .49.

⁹20 U.S.C. § 1094 (c) (3) and 34 C.F.R. §§ 668.71 - .75. Additionally, Education has recently proposed new regulations that would enhance its oversight of Title IV eligible institutions, including provisions related to misrepresentation and aggressive recruiting practices. See 75 Fed. Reg. 34,806 (June 18, 2010).

For-Profit Colleges Encouraged Fraud and Engaged in Deceptive and Otherwise Questionable Sales and Marketing Practices

Our covert testing at 15 for-profit colleges found that four colleges encouraged fraudulent practices, such as encouraging students to submit false information about their financial status. In addition all 15 colleges made some type of deceptive or otherwise questionable statement to undercover applicants, such as misrepresenting the applicant's likely salary after graduation and not providing clear information about the college's graduation rate. Other times our undercover applicants were provided accurate or helpful information by campus admissions and financial aid representatives. Selected video clips of our undercover tests can be seen at <http://www.gao.gov/products/GAO-10-948T>.

Fraudulent Practices Encouraged by For-Profit Colleges

Four of the 15 colleges we visited encouraged our undercover applicants to falsify their FAFSA in order to qualify for financial aid. A financial aid officer at a privately owned college in Texas told our undercover applicant not to report \$250,000 in savings, stating that it was not the government's business how much money the undercover applicant had in a bank account. However, Education requires students to report such assets, which along with income, are used to determine how much and what type of financial aid for which a student is eligible. The admissions representative at this same school encouraged the undercover applicant to change the FAFSA to falsely add dependents in order to qualify for grants. The admissions representative attempted to ease the undercover applicant's concerns about committing fraud by stating that information about the reported dependents, such as Social Security numbers, was not required. An admissions representative at another college told our undercover applicant that changing the FAFSA to indicate that he supported three dependents instead of being a single-person household might drop his income enough to qualify for a Pell Grant. In all four situations when college representatives encouraged our undercover applicants to commit fraud, the applicants indicated on their FAFSA, as well as to the for-profit college staff, that they had just come into an inheritance worth approximately \$250,000. This inheritance was sufficient to pay for the entire cost of the undercover applicant's tuition. However, in all four cases, campus representatives encouraged the undercover applicants to take out loans and assisted them in becoming eligible either for grants or subsidized loans. It was unclear what incentive these colleges had to encourage our undercover applicants to fraudulently fill out financial aid forms given the applicants' ability to pay for college. The following table provides more details on the four colleges involved in encouraging fraudulent activity.

Table 1: Fraudulent Actions Encouraged by For-Profit Colleges

Location	Certification Sought and Course of Study	Type of College	Fraudulent Behavior Encouraged
CA	Certificate - Computer Aided Drafting	Less than 2-year, privately owned	<ul style="list-style-type: none"> Undercover applicant was encouraged by a financial aid representative to change the FAFSA to falsely increase the number of dependents in the household in order to qualify for Pell Grants. The representative told the undercover applicant that by the time the college would be required by Education to verify any information about the applicant, the applicant would have already graduated from the 7-month program. This undercover applicant indicated to the financial aid representative that he had \$250,000 in the bank, and was therefore capable of paying the program's \$15,000 cost. The fraud would have made the applicant eligible for grants and subsidized loans.
FL	Associate's Degree - Radiologic Technology	2-year, privately owned	<ul style="list-style-type: none"> Financial aid representative suggested to the undercover applicant that he not report \$250,000 in savings reported on the FAFSA. The representative told the applicant to come back once the fraudulent financial information changes had been processed. This change would not have made the applicant eligible for grants because his income would have been too high, but it would have made him eligible for loans subsidized by the government. However, this undercover applicant indicated that he had \$250,000 in savings—more than enough to pay for the program's \$39,000 costs.
PA	Certificate - Web Page Design	Less than 2-year, privately owned	<ul style="list-style-type: none"> Financial aid representative told the undercover applicant that he should have answered "zero" when asked about money he had in savings—the applicant had reported a \$250,000 inheritance. The financial aid representative told the undercover applicant that she would "correct" his FAFSA form by reducing the reported assets to zero. She later confirmed by email and voicemail that she had made the change. This change would not have made the applicant eligible for grants, but it would have made him eligible for loans subsidized by the government. However, this applicant indicated that he had about \$250,000 in savings—more than enough to pay for the program's \$21,000 costs.
TX	Bachelor's Degree - Construction Management	4-year, privately owned	<ul style="list-style-type: none"> Admissions representative encouraged applicant to change the FAFSA to falsely add dependents in order to qualify for Pell Grants. Admissions representative assured the undercover applicant that he did not have to identify anything about the dependents, such as their Social Security numbers, nor did he have to prove to the college with a tax return that he had previously claimed them as dependents. Financial aid representative told the undercover applicant that he should not report the \$250,000 in cash he had in savings. This applicant indicated to the financial aid representative that he had \$250,000 in the bank, and was therefore capable of paying the program's \$68,000 cost. The fraud would have made the undercover applicant eligible for more than \$2,000 in grants per year.

Source: GAO.

Deceptive or Questionable Statements

Admissions or financial aid representatives at all 15 for-profit colleges provided our undercover applicants with deceptive or otherwise questionable statements. These deceptive and questionable statements included information about the college's accreditation, graduation rates and its student's prospective employment and salary qualifications, duration and cost of the program, or financial aid. Representatives at schools also employed hard-sell sales and marketing techniques to encourage students to enroll.

Accreditation Information

Admissions representatives at four colleges either misidentified or failed to identify their colleges' accrediting organizations. While all the for-profit colleges we visited were accredited according to information available from Education, federal regulations state that institutions may not provide students with false, erroneous, or misleading statements concerning the particular type, specific source, or the nature and extent of its accreditation. Examples include:

- A representative at a college in Florida owned by a publicly traded company told an undercover applicant that the college was accredited by the same organization that accredits Harvard and the University of Florida when in fact it was not. The representative told the undercover applicant: "It's the top accrediting agency—Harvard, University of Florida—they all use that accrediting agency.... All schools are the same; you never read the papers from the schools."
- A representative of a small beauty college in Washington, D.C. told an undercover applicant that the college was accredited by "an agency affiliated with the government," but did not specifically name the accrediting body. Federal and state government agencies do not accredit educational institutions.
- A representative of a college in California owned by a private corporation told an undercover applicant that this college was the only one to receive its accrediting organization's "School of Excellence" award. The accrediting organization's Web site listed 35 colleges as having received that award.

Graduation Rate, Employment and Expected Salaries

Representatives from 13 colleges gave our applicants deceptive or otherwise questionable information about graduation rates, guaranteed applicants jobs upon graduation, or exaggerated likely earnings. Federal statutes and regulations require that colleges disclose the graduation rate to applicants upon request, although this requirement can be satisfied by posting the information on their Web site. Representatives at 13 colleges

did not provide applicants with accurate or complete information about graduation rates. Of these thirteen, four provided graduation rate information in some form on their Web site, although it required a considerable amount of searching to locate the information. Nine schools did not provide graduation rates either during our in person visit or on their Web sites. For example, when asked for the graduation rate, a representative at a college in Arizona owned by a publicly traded company said that last year 90 students graduated, but did not disclose the actual graduation rate. When our undercover applicant asked about graduation rates at a college in Pennsylvania owned by a publicly traded company, he was told that if all work was completed, then the applicant should successfully complete the program—again the representative failed to disclose the college's graduation rate when asked. However, because graduation rate information was available at both these colleges' Web sites, the colleges were in compliance with Education regulations.

In addition, according to federal regulations, a college may not misrepresent the employability of its graduates, including the college's ability to secure its graduates employment. However, representatives at two colleges told our undercover applicants that they were guaranteed or virtually guaranteed employment upon completion of the program. At five colleges, our undercover applicants were given potentially deceptive information about prospective salaries. Examples of deceptive or otherwise questionable information told to our undercover applicants included:

- A college owned by a publicly traded company told our applicant that, after completing an associate's degree in criminal justice, he could try to go work for the Federal Bureau of Investigation or the Central Intelligence Agency. While other careers within those agencies may be possible, positions as a FBI Special Agent or CIA Clandestine Officer, require a bachelor's degree at a minimum.
- A small beauty college told our applicant that barbers can earn \$150,000 to \$250,000 a year. While this may be true in exceptional circumstances, the Bureau of Labor Statistics (BLS) reports that 90 percent of barbers make less than \$43,000 a year.
- A college owned by a publicly traded company told our applicant that instead of obtaining a criminal justice associate's degree, she should consider a medical assisting certificate and that after only 9 months of college, she could earn up to \$68,000 a year. A salary this high would be

extremely unusual; 90 percent of all people working in this field make less than \$40,000 a year, according to the BLS.

Program Duration and Cost

Representatives from nine colleges gave our undercover applicants deceptive or otherwise questionable information about the duration or cost of their colleges' programs. According to federal regulations, a college may not substantially misrepresent the total cost of an academic program. Representatives at these colleges used two different methods to calculate program duration and cost of attendance. Colleges described the duration of the program as if students would attend classes for 12 months per year, but reported the annual cost of attendance for only 9 months of classes per year. This disguises the program's total cost. Examples include:

- A representative at one college said it would take 3.5–4 years to obtain a bachelor's degree by taking classes year round, but quoted the applicant an annual cost for attending classes for 9 months of the year. She did not explain that attending classes for only 9 months out of the year would require an additional year to complete the program. If the applicant did complete the degree in 4 years, the annual cost would be higher than quoted to reflect the extra class time required per year.
- At another college, the representative quoted our undercover applicant an annual cost of around \$12,000 per year and said it would take 2 years to graduate without breaks, but when asked about the total cost, the representative told our undercover applicant it would cost \$30,000 to complete the program—equivalent to more than two and a half years of the previously quoted amount. If the undercover applicant had not inquired about the total cost of the program, she would have been led to believe that the total cost to obtain the associate's degree would have been \$24,000.

Financial Aid

Eleven colleges denied undercover applicants access to their financial aid eligibility or provided questionable financial advice. According to federal statutes and regulations, colleges must make information on financial assistance programs available to all current and prospective students.

- Six colleges in four states told our undercover applicants that they could not speak with financial aid representatives or find out what grants and loans they were eligible to receive until they completed the college's enrollment forms agreeing to become a student and paid a small application fee to enroll.

Other Sales and Marketing Tactics

- A representative at one college in Florida owned by a publicly traded company advised our undercover applicant not to concern himself with loan repayment because his future salary—he was assured—would be sufficient to repay loans.
- A representative at one college in Florida owned by a private company told our undercover applicant that student loans were not like car loans because “no one will come after you if you don’t pay.” In reality, students who cannot pay their loans face fees, may damage their credit, have difficulty taking out future loans, and in most cases, bankruptcy law prohibits a student borrower from discharging a student loan.
- A representative at a college owned by a publicly traded corporation told our undercover applicant that she should take out the maximum amount of federal loans she could, even if she did not need all the money. She told the applicant she should put the extra money in a high-interest savings account. While subsidized loans do not accrue interest while a student is in college, unsubsidized loans do accrue interest. The representative did not disclose this distinction to the applicant when explaining that she should put the money in a savings account.

Six colleges engaged in other questionable sales and marketing tactics such as employing hard-sell sales and marketing techniques and requiring enrolled students to pay monthly installments to the college during their education.

- At one Florida college owned by a publicly traded company, a representative told our undercover applicant she needed to answer 18 questions correctly on a 50 question test to be accepted to the college. The test proctor sat with her in the room and coached her during the test.
- At two other colleges, our undercover applicants were allowed 20 minutes to complete a 12-minute test or took the test twice to get a higher score.
- At the same Florida college, multiple representatives used high pressure marketing techniques, becoming argumentative, and scolding our undercover applicants for refusing to enroll before speaking with financial aid.
- A representative at this Florida college encouraged our undercover applicant to sign an enrollment agreement while assuring her that the contract was not legally binding.

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- A representative at another college in Florida owned by a publicly traded company said that he personally had taken out over \$85,000 in loans to pay for his degree, but he told our undercover applicant that he probably would not pay it back because he had a "tomorrow's never promised" philosophy.
 - Three colleges required undercover applicants to make \$20–\$150 monthly payments once enrolled, despite the fact that students are typically not required to repay loans until after the student finishes or drops out of the program. These colleges gave different reasons for why students were required to make these payments and were sometimes unclear exactly what these payments were for. At one college, the applicant would have been eligible for enough grants and loans to cover the annual cost of tuition, but was told that she needed to make progress payments toward the cost of the degree separate from the money she would receive from loans and grants. A representative from this college told the undercover applicant that the federal government's "90/10 Rule" required the applicant to make these payments. However, the "90/10 Rule" does not place any requirements on students, only on the college.
 - At two colleges, our undercover applicants were told that if they recruited other students, they could earn rewards, such as an MP3 player or a gift card to a local store.¹⁰

Accurate and Helpful Information Provided

In some instances our undercover applicants were provided accurate or helpful information by campus admissions and financial aid representatives. In line with federal regulations, undercover applicants at several colleges were provided accurate information about the transferability of credits to other postsecondary institutions, for example:

¹⁰Depending on the value of the gift, such a transaction may be allowed under current law. Federal statute requires that a college's program participation agreement with Education include a provision that the college 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. However, Education's regulations have identified 12 types of payment and compensation plans that do not violate this statutory prohibition, referred to as "safe harbors". Under one of these exceptions, schools are allowed to provide "token gifts" valued under \$100 to a student provided the gift is not in the form of money and no more than one gift is provided annually to an individual. However, on June 18, 2010 the Department of Education issued a notice of proposed rulemaking that would, among other things, eliminate these 12 safe harbors and restore the full prohibition.

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- A representative at a college owned by a publicly traded company in Pennsylvania told our applicant that with regard to the transfer of credits, "different schools treat it differently; you have to roll the dice and hope it transfers."
 - A representative at a privately owned for-profit college in Washington, D.C. told our undercover applicant that the transfer of credits depends on the college the applicant wanted to transfer to.

Some financial aid counselors cautioned undercover applicants not to take out more loans than necessary or provided accurate information about what the applicant was required to report on his FAFSA, for example:

- One financial aid counselor at a privately owned college in Washington D.C. told an applicant that because the money had to be paid back, the applicant should be cautious about taking out more debt than necessary.
- A financial aid counselor at a college in Arizona owned by a publicly traded company had the undercover applicant call the FAFSA help line to have him ask whether he was required to report his \$250,000 inheritance. When the FAFSA help line representative told the undercover applicant that it had to be reported, the college financial aid representative did not encourage the applicant not to report the money.

In addition, some admissions or career placement staff gave undercover applicants reasonable information about prospective salaries and potential for employment, for example:

- Several undercover applicants were provided salary information obtained from the BLS or were encouraged to research salaries in their prospective fields using the BLS Web site.
- A career services representative at a privately owned for-profit college in Pennsylvania told an applicant that as an entry level graphic designer, he could expect to earn \$10-\$15 per hour. According to the BLS only 25 percent of graphic designers earn less than \$15 per hour in Pennsylvania.

Web Site Inquiries Result in Hundreds of Calls

Some Web sites that claim to match students with colleges are in reality lead generators used by many for-profit colleges to market to prospective students. Though such Web sites may be useful for students searching for schools in some cases, our undercover tests involving four fictitious

prospective students led to a flood of calls—about five a day. Four of our prospective students filled out forms on two Web sites, which ask questions about students' interests, match them to for-profit colleges with relevant programs, and provide the students' information to the appropriate college or the college's outsourced calling center for follow-up about enrollment. Two fictitious prospective students expressed interest in a culinary arts certificate, one on Web site A and one on Web site B. Two other prospective students expressed interest in a bachelor's in business administration degree, one on each Web site.

Within minutes of filling out forms, three prospective students received numerous phone calls from colleges. One fictitious prospective student received a phone call about enrollment within 5 minutes of registering and another 5 phone calls within the hour. Another prospective student received 2 phone calls separated only by seconds within the first 5 minutes of registering and another 3 phone calls within the hour. Within a month of using the Web sites, one student interested in business management received 182 phone calls and another student also interested in business management received 179 phone calls. The two students interested in culinary arts programs received fewer calls—one student received only a handful, while the other received 72. In total, the four students received 436 phone calls in the first 30 days after using the Web sites. Of these, only six calls—all from the same college—came from a public college.¹¹ The table below provides information about the calls these students received within the first 30 days of registering at the Web site.

¹¹Of the 436 calls, not all resulted in a voice message in which a representative identified the school he or she was calling from. For those callers who did not leave a message, GAO attempted to trace the destination of the caller. In some cases GAO was not able to identify who placed the call to the student.

Table 2: Telephone Calls Received as a Result of Web site Inquiries

Student	Student's Location	Web Site Student Used	Degree	Number of Calls Received Within 24 Hours of Registering	Most Calls Received in One Day*	Total Number of Calls Received in a Month
1	GA	A	Business Administration	21	19	179
2	CA	B	Business Administration	24	18	182
3	MD	A	Culinary Arts	5	8	72
4	NV	B	Culinary Arts	2	1	3

Source: GAO

*This number is based on the number of calls received within the first month of registering but does not include the first 24 hours.

Tuition at For-Profit Colleges Is Sometimes Higher Than Tuition at Nearby Public and Private Nonprofit Colleges

During the course of our undercover applications, some college representatives told our applicants that their programs were a good value. For example, a representative of a privately owned for-profit college in California told our undercover applicant that the \$14,495 cost of tuition for a computer-aided drafting certificate was "really low." A representative at a for-profit college in Florida owned by a publicly traded company told our undercover applicant that the cost of their associate's degree in criminal justice was definitely "worth the investment". However, based on information we obtained from for-profit colleges we tested, and public and private nonprofit colleges in the same geographic region, we found that most certificate or associate's degree programs at the for-profit colleges we tested cost more than similar degrees at public or private nonprofit colleges. We found that bachelor's degrees obtained at the for-profit colleges we tested frequently cost more than similar degrees at public colleges in the area; however, bachelor's degrees obtained at private nonprofit colleges nearby are often more expensive than at the for-profit colleges.

We compared the cost of tuition at the 15 for-profit colleges we visited, with public and private non-profit colleges located in the same geographic area as the for-profit college. We found that tuition in 14 out of 15 cases, regardless of degree, was more expensive at the for-profit college than at the closest public colleges. For 6 of the 15 for-profit colleges tested, we could not find a private nonprofit college located within 250 miles that offered a similar degree. For 1 of the 15, representatives from the private nonprofit college were unwilling to disclose their tuition rates when we inquired. At eight of the private nonprofit colleges for which we were able to obtain tuition information on a comparable degree, four of the for-profit colleges were more expensive than the private nonprofit college. In the

other four cases, the private nonprofit college was more expensive than the for-profit college.

We found that tuition for certificates at for-profit colleges were often significantly more expensive than at a nearby public college. For example, our undercover applicant would have paid \$13,945 for a certificate in computer aided drafting program—a certification for a 7-month program obtained by those interested in computer-aided drafting, architecture, and engineering—at the for-profit college we visited. To obtain a certificate in computer-aided drafting at a nearby public college would have cost a student \$520. However, for two of the five colleges we visited with certificate programs, we could not locate a private nonprofit college within a 250 mile radius and another one of them would not disclose its tuition rate to us. We were able to determine that in Illinois, a student would spend \$11,995 on a medical assisting certificate at a for-profit college, \$9,307 on the same certificate at the closest private nonprofit college, and \$3,990 at the closest public college. We were also able to determine that in Pennsylvania, a student would spend \$21,250 on a certificate in Web page design at a for-profit college, \$4,750 on the same certificate at the closest private nonprofit college, and \$2,037 at the closest public college.

We also found that for the five associate's degrees we were interested in, tuition at a for-profit college was significantly more than tuition at the closest public college. On average, for the five colleges we visited, it cost between 6 and 13 times more to attend the for-profit college to obtain an associate's degree than a public college. For example, in Texas, our undercover applicant was interested in an associate's degree in respiratory therapy which would have cost \$38,995 in tuition at the for-profit college and \$2,952 at the closest public college. For three of the associate's degrees we were interested in, there was not private nonprofit college located within 250 miles of the for-profit we visited. We found that in Florida the associate's degree in Criminal Justice that would have cost a student \$4,448 at a public college, would have cost the student \$26,936 at a for-profit college or \$27,600 at a private nonprofit college—roughly the same amount. In Texas, the associate's degree in Business Administration would have cost a student \$2,870 at a public college, \$32,665 at the for-profit college we visited, and \$28,830 at the closest private nonprofit college.

We found that with respect to the bachelor's degrees we were interested in, four out of five times, the degree was more expensive to obtain at the for-profit college than the public college. For example in Washington, D.C.,

the bachelor's degree in Management Information Systems would have cost \$53,400 at the for-profit college, and \$51,544 at the closest public college. The same bachelor's degree would have cost \$144,720 at the closest private nonprofit college. For one bachelor's degree, there was no private nonprofit college offering the degree within a 250 mile radius. Three of the four private nonprofit colleges were more expensive than their for-profit counterparts.

Table 3: Program Total Tuition Rates

Degree	Location	For-Profit College Tuition	Public College Tuition	Private Nonprofit College Tuition
Certificate – Computer-aided drafting	CA	\$13,945	\$520	College would not disclose
Certificate – Massage Therapy	CA	\$14,487	\$520	No college within 250 miles
Certificate – Cosmetology	DC	\$11,500	\$9,375	No college within 250 miles
Certificate – Medical Assistant	IL	\$11,995	\$3,990	\$9,307
Certificate – Web Page Design	PA	\$21,250	\$2,037	\$4,750
Associate's – Paralegal	AZ	\$30,048	\$4,544	No college within 250 miles
Associate's – Radiation Therapy	FL	\$38,690	\$5,621	No college within 250 miles
Associate's – Criminal Justice	FL	\$26,936	\$4,448	\$27,600
Associate's – Business Administration	TX	\$32,665	\$2,870	\$28,830
Associate's – Respiratory Therapist	TX	\$38,995	\$2,952	No college within 250 miles
Bachelor's – Management Information Systems	DC	\$53,400	\$51,544	\$144,720
Bachelor's – Elementary Education	AZ	\$46,200	\$31,176	\$28,160
Bachelor's – Psychology	IL	\$61,200	\$36,536	\$66,960
Bachelor's – Business Administration	PA	\$49,200	\$49,292	\$124,696
Bachelor's – Construction Management	TX	\$65,338	\$25,288	No college within 250 miles

Source: Information obtained from for-profit colleges admissions employees and nonprofit college web sites or employees.

Note: These costs do not include books or supplies, unless the college gave the undercover applicant a flat rate to attend the for-profit college, which was inclusive of books. In which case we were not able to separate the cost of books and supplies.

Mr. Chairman, this concludes my statement. I would be pleased to answer any questions that you or other members of the committee may have at this time.

Contacts and Acknowledgments

For additional information about this testimony, please contact Gregory D. Kutz at (202) 512-6722 or kutzg@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this statement.

Appendix I: Detailed Results of Undercover Tests

The following table provides details on each of the 15 for-profit colleges visited by undercover applicants. We visited each school twice, posing once as an applicant who was eligible to receive both grants and loans (Scenario 1), and once as an applicant with a salary and savings that would qualify the undercover applicant only for unsubsidized loans (Scenario 2).

College information and degree sought	Students receiving Pell Grants ^a	Students receiving federal loans ^a	Graduation rate ^a	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
1 AZ - 4-year, owned by publicly traded company Bachelor's - Education	27%	39%	15%	<p><u>Scenario 1</u></p> <ul style="list-style-type: none"> Admissions representative compares the college to the University of Arizona and Arizona State University. Admissions representative did not disclose the graduation rate after being directly asked. He provided information on how many students graduated. This information was available on the college's Web site; however, it required significant effort to find the college's graduation rate, and the college did not provide separate graduation rates for its multiple campuses nationwide. Admissions representative says that he does not know the job placement rate because a lot of students moved out of the area. Admissions representative encourages undercover applicant to continue on with a master's degree after finishing with the bachelor's, explaining that some countries pay teachers more than they do doctors and lawyers. <p><u>Scenario 2</u></p> <ul style="list-style-type: none"> Admissions representative said the bachelor's degree would take a maximum of 4 years to complete, but she provided a 1-year cost estimate equal to 1/5 of the required credit hours. According to the admissions representative the undercover applicant was qualified for \$9,500 in student loans, and the representative said that the applicant should take out the full amount even though the applicant stated that he had \$250,000 in savings. Admissions representative told the undercover applicant that the graduation rate is 20 percent. Education reports that it is 15 percent.

College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
2 AZ - 4-year, owned by publicly traded company Associate's Degree - Paralegal	57%	83%	Not reported	<u>Scenario 2</u> <ul style="list-style-type: none"> Financial aid representative estimated federal aid eligibility without the undercover applicant's reported \$250,000 in savings to see if applicant qualified for more financial aid. The representative informed the applicant he was ineligible for any grants. Admissions representative misrepresented the length of the program by telling the undercover applicant that the 96 credit hour program would take 2 years to complete. However, she only provided the applicant a first year cost estimate for 36 credit hours. At this rate it would take more than 2.5 years to complete
3 CA - less than 2-year, privately owned Certificate - Computer Aided Drafting	94%	96%	84%	<u>Scenario 1</u> <ul style="list-style-type: none"> The admissions representative told the undercover applicant that if she failed to pass the college's required assessment test, she can continue to take different tests until she passes. The admissions representative did not tell the graduation rate when asked directly. Instead, she stated many students have graduated from the program recently. The college's Web site also did not provide the graduation rate. Undercover applicant was required to take a 12-minute admittance test but was given over 20 minutes because the test proctor was not monitoring the student. <u>Scenario 2</u> <ul style="list-style-type: none"> Undercover applicant was encouraged by a financial aid representative to change the FAFSA to falsely increase the number of dependents in the household in order to qualify for a Pell Grant. The financial aid representative was aware of the undercover applicant's inheritance and suggested he take out the maximum in student loans. The career representative told the undercover applicant that getting a job is a "piece of cake" and then told the applicant that she has graduates making \$120,000 - \$130,000 a year. This is likely the exception; according to the BLS 90 percent of architectural and civil drafters make less than \$70,000 per year.

College Information and degree sought	Students receiving Pell Grants ^a	Students receiving federal loans ^a	Graduation rate ^a	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
4	73%	83%	66%	<p><u>Scenario 1</u></p> <ul style="list-style-type: none"> The financial aid representative would not discuss the undercover applicant's eligibility for grants and loans and required the applicant to return on another day. <p><u>Scenario 2</u></p> <ul style="list-style-type: none"> Undercover applicant was told that he could earn up to \$100 an hour as a massage therapist. While this may be possible, according to the BLS, 90 percent of all massage therapists in California make less than \$34 per hour.
CA - 2-year, owned by publicly traded company				
Certificate - Massage Therapy				
5	34%	66%	71%	<p><u>Scenario 1</u></p> <ul style="list-style-type: none"> Admissions representative explains to the undercover applicant that although community college might be a less expensive place to get a degree, community colleges make students spend money on classes that they do not need for their career. However, this school also requires students to take at least 36 credit hours of non-business general education courses. Admissions representative did not disclose the graduation rate after being directly asked. He told the undercover applicant that it is a "good" graduation rate. The college's Web site also did not provide the graduation rate. Admissions representative encouraged the undercover applicant to enroll by asking her to envision graduation day. He stated, "Let me ask you this, if you could walk across the stage in a black cap and gown. And walk with the rest of the graduating class and take a degree from the president's hand, how would that make you feel?" <p><u>Scenario 2</u></p> <ul style="list-style-type: none"> Admissions representative said the bachelor's degree would take 3.5 to 4 years to complete, but he provided a one-year cost estimate equal to 1/5 of the required credit hours. Admissions representative required the undercover applicant to apply to the college before he could talk to someone in financial aid. Admissions representative told the undercover applicant that almost all of the graduates get jobs. Flyer provided to undercover applicant stated that the average income for business management professionals in 2004 was \$77,000-\$118,000. When asked more directly about likely starting salaries, the admissions representative said that it was between \$40,000 and \$50,000.
DC - 4-year, privately owned				
Bachelor's Degree - Business Information Systems				

College information and degree sought	Students receiving Pell Grants ^a	Students receiving federal loans ^a	Graduation rate ^a	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
6 DC – less than 2-year, Privately owned Certificate – Cosmetology, Barber	74%	74%	Not reported	<p><u>Scenario 1</u></p> <ul style="list-style-type: none"> Admissions representative told the undercover applicant that the college was accredited by "an agency affiliated with the government," but did not specifically name the accrediting body. Admissions representative told the undercover applicant that all graduates get jobs. He stated that the president of the college would employ students in his local salons if they did not find work elsewhere. <p><u>Scenario 2</u></p> <ul style="list-style-type: none"> Admissions representative told our undercover applicant that barbers can earn \$150,000 to \$250,000 a year, though that would be extremely unusual. The BLS reports that 90 percent of barbers make less than \$43,000 a year. In Washington, D.C., 90 percent of barbers make less than \$17,000 per year. He said, "The money you can make, the potential is astronomical."
7 FL - 2-year, privately owned Associate's Degree – Radiologic Therapy	86%	92%	78%	<p><u>Scenario 1</u></p> <ul style="list-style-type: none"> Admissions representative did not provide the graduation rate when directly asked, but said it is "very high." The college's Web site also did not provide the graduation rate. Admissions officer was vague about graduation rate. She told undercover applicant that the last class had 16 people graduate, but did not say how many started. Admissions representative told our prospective undercover applicant that student loans were not like car loans because "no one will come after you if you don't pay." In reality, students who cannot pay their loans face fees, may damage their credit, have difficulty taking out future loans, and in most cases, bankruptcy law prohibits a student borrower from discharging a student loan. <p><u>Scenario 2</u></p> <ul style="list-style-type: none"> Financial aid representative suggested to the undercover applicant that he not report \$250,000 in savings reported on the FAFSA. The representative told the applicant to come back once the fraudulent financial information changes had been processed. This change would not have made the undercover applicant eligible for grants because his income would have been too high, but it would have made him eligible for loans subsidized by the government.

College information and degree sought	Students receiving Pell Grants ^a	Students receiving federal loans ^a	Graduation rate ^a	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
8	Not Reported	Not Reported	Not Reported	<p><u>Scenario 1</u></p> <ul style="list-style-type: none"> Admissions representative falsely stated that the college was accredited by the same agency that accredits Harvard and the University of Florida. A test proctor sat in the test taking room with the undercover applicant and coached her during the test. The undercover applicant was not allowed to speak to a financial aid representative until she enrolled in the college. Applicant had to sign agreement saying she would pay \$50 per month toward her education while enrolled in college. On paying back loans, the representative said, "You gotta look at it...I owe \$85,000 to the University of Florida. Will I pay it back? Probably not...I look at life as tomorrow's never promised....Education is an investment, you're going to get paid back ten-fold, no matter what." Admissions representative suggested undercover applicant switch from criminal justice to the medical assistant certificate, where she could make up to \$68,000 per year. While this may be possible, BLS reports 90% of medical assistants make less than \$40,000 per year. <p><u>Scenario 2</u></p> <ul style="list-style-type: none"> When the applicant asked about financial aid, the 2 representatives would not answer but debated with him about his commitment level for the next 30 minutes. The representative first told the undercover applicant the program would take 18 months to complete. He later said it would take 2 years to complete. He said that student loans would absolutely cover all costs in this 2-year program. However, to pay for the program, the undercover applicant would need to 1) acquire federal student loans for 3 years, or 2) acquire private loans or pay some out of pocket to complete the program in less than 3 years. The representative said paying back loans should not be a concern because once he had his new job, repayment would not be an issue. The representatives used hard-sell marketing techniques; they became argumentative, called applicant afraid, and scolded applicant for not wanting to take out loans.

College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
9 IL - 2-year, privately owned Certificate - Medical Assistant	83%	80%	70%	<u>Scenario 2</u> <ul style="list-style-type: none"> Admissions representative initially provided misleading information to the undercover applicant about the transferability of the credit. First she told the applicant that the credits will transfer. Later, she correctly told the applicant that it depends on the college and what classes have been taken.
10 IL - 4-year, privately owned Bachelor's Degree - Psychology	Not reported	Not reported	Not reported	<u>Scenario 1</u> <ul style="list-style-type: none"> Admissions representative said the bachelor's degree would take 3.5-4 years to complete, but only provided an annual cost estimate for 1/5 of the program. <u>Scenario 2</u> <ul style="list-style-type: none"> When the undercover applicant asked about the qualification of the professors, the only information provided about the qualifications of the professors is that they have professional experience. Admissions representative did not provide the graduation rate when directly asked. Instead she said "not everyone graduates".
11 PA - 4-year, owned by publicly traded company Bachelor's Degree - Business Administration	47%	58%	9%	<u>Scenario 1</u> <ul style="list-style-type: none"> Admissions representative told the undercover applicant that she should take out the maximum amount of federal loans she could, even if she did not need all the money. She told the applicant she should put the extra money in a high-interest savings account. While subsidized loans do not accrue interest while a student is in college, unsubsidized loans do accrue interest. The representative did not disclose this distinction to the applicant when explaining that she should put the money in a savings account. <u>Scenario 2</u> <ul style="list-style-type: none"> Admissions representative tells the undercover applicant that the college is regionally accredited but does not state the name of the accrediting agency. The college's Web site did provide specific information about the college's accreditation, however. Admissions representative said financial aid may be able to use what they call "professional judgment" to determine that the undercover applicant does not need to report over \$250,000 in savings on the FAFSA. Admissions representative did not disclose the graduation rate after being directly asked. He instead explained that all students that do the work graduate. This information was available on the college's Web site; however, it required significant effort to find the college's graduation rate, and the college did not provide separate graduation rates for its multiple campuses nationwide.

College information and degree sought	Students receiving Pell Grants ^a	Students receiving federal loans ^a	Graduation rate ^a	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
12 PA – less than 2-year, privately owned Certificate – Web Page Design	52%	69%	56%	<u>Scenario 1</u> <ul style="list-style-type: none"> Admissions representative told the undercover applicant that she has never seen a student decline to attend after speaking with financial aid. The admissions representative would not allow the applicant to speak with financial aid until she enrolls in the college. If the undercover applicant was able to get a friend to enroll in the college she could get an MP3 player and a rolling backpack. <u>Scenario 2</u> <ul style="list-style-type: none"> Financial aid representative told the undercover applicant that he should have answered “zero” when asked about money he had in savings—the applicant had reported a \$250,000 inheritance. The financial aid representative told the undercover applicant that she would “correct” his FAFSA form by reducing the reported assets to zero. She later confirmed by e-mail and voicemail that she had made the change. This change would not have made the undercover applicant eligible for grants, but it would have made him eligible for loans subsidized by the government.
13 TX - 4-year, privately owned Bachelor's Degree – Construction Management; Visual Communications	81%	99%	54%	<u>Scenario 1</u> <ul style="list-style-type: none"> Admissions representative did not disclose the graduation rate after being directly asked. The college's Web site also did not provide the graduation rate. Admissions representative said the program would cost between \$50,000 and \$75,000 instead of providing a specific number. <u>Scenario 2</u> <ul style="list-style-type: none"> Admissions representative encouraged undercover applicant to change the FAFSA to falsely add dependents in order to qualify for grants. This undercover applicant indicated to the financial aid representative that he had \$250,000 in the bank, and was therefore capable of paying the program's \$68,000 cost. The fraud would have made the applicant eligible for \$2,000 in grants per year.

College information and degree sought	Students receiving Pell Grants*	Students receiving federal loans*	Graduation rate*	Encouragement of fraud, and engagement in deceptive, or otherwise questionable behavior
14	89%	92%	34%	<p><u>Scenario 1</u></p> <ul style="list-style-type: none"> Admissions representative said the program takes 18 to 24 months to complete, but provided a cost estimate that suggests the program takes more than 2.5 years to complete. Admissions representative did not disclose the graduation rate after being directly asked. The college's Web site also did not provide the graduation rate. <p><u>Scenario 2</u></p> <ul style="list-style-type: none"> Undercover applicant would be required to make a monthly payment to the college towards student loans while enrolled. Admissions representative guaranteed the undercover applicant that getting a degree would increase his salary.
<p>TX - 2-year, owned by publicly traded company</p> <p>Associate's Degree - Business Administration</p>				
15	100%	100%	70%	<p><u>Scenario 1</u></p> <ul style="list-style-type: none"> The undercover applicant was not allowed to speak to a financial aid representative until he enrolled in the college. Admissions representative misrepresented the length of time it would take to complete the degree. He said the degree would take 2 years to complete but provided a cost worksheet that spanned 3 years. <p><u>Scenario 2</u></p> <ul style="list-style-type: none"> The undercover applicant was told he was not allowed to speak to a financial aid representative until he enrolled in the college. After refusing to sign an enrollment agreement the applicant was allowed to speak to someone in financial aid. Admissions representative told undercover applicant that monthly loan repayment would be lower than it actually would.
<p>TX - 2-year, privately owned</p> <p>Associate's Degree - Respiratory Therapy</p>				

Source: GAO undercover visits and Department of Education.

*This information was obtained from the Department of Education National Center for Education Statistics.

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State Offices with Regulatory Responsibility
for
Private Postsecondary (Degree Granting) Institutions

Alabama: Alabama Commission on Higher Education

Alaska: Alaska Commission on Postsecondary Education

Arizona: State Board for Private Postsecondary Education

Arkansas: Arkansas Department of Higher Education

California: new legislation - restructuring

Colorado: Colorado Department of Higher Education

Connecticut: Department of Higher Education

Delaware: Delaware State Department of Education

District of Columbia: State Education Office

Florida: Commission for Independent Education

Georgia: Nonpublic Postsecondary Education Commission

Kansas: Kansas Board of Regents

Hawaii: Office of Consumer Protection

Idaho: Idaho State Board of Education

Illinois: Illinois State Board of Higher Education

Indiana: Indiana Commission on Proprietary Education

Iowa: Iowa College Student Aid Commission

Kansas: Kansas Board of Regents

Kentucky: Kentucky Council on Postsecondary Education

Louisiana: Louisiana Board of Regents

Maine: Maine Department of Education

Maryland: Maryland Higher Education Commission

Massachusetts: Massachusetts Board of Higher Education

Michigan: Michigan Department of Labor and Economic Growth

Minnesota: Minnesota Office of Higher Education

Missouri: Missouri Department of Higher Education

Nebraska: Nebraska Coordinating Commission for Postsecondary Education

Nevada: Nevada Commission on Postsecondary Education

New Hampshire: Postsecondary Education Commission

New Jersey: Commission on Higher Education

New Mexico: New Mexico Higher Education Department

New York: New York State Board of Regents

North Dakota: North Dakota Career and Technical Education

Ohio: Ohio Board of Regents

Oklahoma: Oklahoma State Regents for Higher Education

Oregon: Oregon Student Assistance Commission

Pennsylvania: Pennsylvania Department of Education

Puerto Rico: Puerto Rico Council on Higher Education

Rhode Island: Rhode Island Office of Higher Education

South Carolina: South Carolina Commission on Higher Education

South Dakota: South Dakota Board of Regents

Tennessee: Tennessee Higher Education Commission

Texas: Texas Higher Education Coordinating Board

Vermont: Vermont Department of Education

Virginia: State Council for Higher Education

Washington: Washington Higher Education Coordinating Board

West Virginia: West Virginia Council

Wisconsin: Wisconsin Educational Approval Board

Wyoming: Wyoming Department of Education

North Dakota University System
HB 1128 & 1129 – House Education Committee
January 12, 2011
Michel Hillman

Good morning, Madame Chair, members of the House Education Committee. For the record, my name is Michel Hillman, Vice Chancellor for Academic and Student Affairs, North Dakota University System. Chancellor Goetz is meeting with his cabinet this morning and asked me to provide testimony in support of the committee's discussion of HB 1128 and 1129.

The NDUS has a close working relationship with CTE regarding the regulation of out-of-state higher education providers. Current state law gives CTE the authority to regulate out-of-state providers, but they work closely with us on the review of requests for authority to operate in the state.

In 2008, NDUS and CTE jointly formed and co-chaired a Higher Education Consumer Protection Standards Committee which included representation from tribal (Sitting Bull College), private (University of Mary) and proprietary colleges (Rasmussen College) operating in the state. At the time, the committee report indicated that:

The Committee considered whether the responsibility for oversight of private institutions and schools should remain within the Department of Career and Technical Education. A review of practices in other states revealed that no other state departments of career and technical education are charged with oversight of private degree-granting institutions. Most higher education oversight responsibilities are housed within states' higher education agencies, or in independent commissions. The Committee's consensus was that although an independent body might represent the best possible structure for oversight, a more economical approach would be to establish a Commission composed of broad representation of public and private institutions and related entities housed administratively within the North Dakota University System.

The new governing body would, in addition to assuming the current responsibilities assigned to NDCTE for Postsecondary Education Institutions (NDCC 15-20.4), continue the work of the Higher Education Consumer Protection Standards Committee: to develop a comprehensive set of higher education quality standards for all postsecondary institutions in North Dakota, public or private. A suggested title for this organization is The North Dakota Commission on Private Postsecondary Education.

In addition, the report recommended representation on the new commission as well as administrator qualification standards, faculty qualification standards, distance education standards, expectations for student records and records protection and, the establishment of a tuition protection fund. At the time higher education consumer protection issues were not highly visible and public, and, resources were not available to implement improvements.

Since then there have been a number of highly visible national news stories related to: student loan default rates in high cost programs from propriety colleges; student inability to qualify for adequately compensated jobs and repay loans after graduating from high cost programs, and; the General Accountability Office report on fraud and deceptive marketing practices of some for-profit colleges. All of this has led to re-consideration of the shared responsibility of the federal government, state government, and accreditors in assuring quality and value to higher education consumers.

On October 29, 2010, the federal government released its 145 page Final Rule on Program Integrity Issues: <http://edocket.access.gpo.gov/2010/pdf/2010-26531.pdf> Although labeled "final" we are expecting that the U.S. Department of Education will be releasing a letter further clarifying the regulations. The WICHE WCET summary of the federal regulations and status is attached for your information.

The North Central Association of Colleges and Schools, Higher Learning Commission has released a "Commission Statement on Marketing Practices at For-Profit Institutions" (attached) in response to the GAO report. The commission is reviewing its distance education guidelines including methods used to verify student identity. A more complete commission response is not expected until the federal requirements receive final clarification.

The NDUS supports improved state standards as part of a comprehensive approach to protect higher education consumers. The federal requirements clearly require states to approve institutions to operate in each state. HB 1128 and 1129 provide two approaches to a state approval process. Higher education consumer protection and the approval process used to maintain it is a major state policy issue. We look forward to this important discussion and stand ready to provide any background requested to support a decision.



Advance

good practices and sound policies that accelerate the effective adoption and use of technologies in teaching and learning.

2010 Federal Regulations on State Approval of Out-of-State Providers

On October 29, 2010, the U.S. Department of Education (USDOE) released new regulations. In a recent webcast on the state approval issue, Fred Sellers of the USDOE said that: "Under the Higher Education Act, for an institution in any State to be eligible to participate in Federal programs, it must be legally authorized by the State to provide postsecondary education." Note that, in this case, the term "Federal programs" applies to any federal funding, including federal financial aid programs.

December 7, 2010 Webcast with Fred Sellers, USDOE:

- [Webcast Archive.](#)
- [Slides from Webcast.](#)
- [Links and Resources.](#)
- [Chat Log.](#)

These regulations have their basis in the [Higher Education Opportunity Act \(HEOA\) of 2008](#). A "Negotiated Rulemaking" process was conducted to create regulations regarding how the USDOE will interpret and enforce the language passed by Congress.

The "state approval" language originally proposed in June 2010 by USDOE can be found in the [Federal Register](#) beginning on page 3482. The final changes to that language were released on October 29, 2010 and can be found in the [Federal Register](#), beginning on page 66858.

Below is a summary of these regulations compiled by Russ Poulin of WCET. While the content appearing on this page has been researched, this page is not officially sanctioned by USDOE.

Requirements for States

The announcement in the [Federal Register](#) (p. 66858) reads: "These final regulations do not mandate that a State create any licensing agency for purposes of Federal program eligibility." State licensure and approval agencies need to:

- Approve institutions to "operate" in the state.
- If not an institution, approve the entity to offer postsecondary education in the state. "In the case of an entity established as a business or nonprofit charitable organization, i.e., not as an educational institution, the entity would be required to have authorization from the State to offer educational programs beyond secondary education." ([Federal Register](#) p. 66858) Some states require entities to have a business license, but this seems to require that states also approve the entity to offer postsecondary education.
- Upon request of the USDOE, provide a list of institutions approved to operate in the state [by name](#).
- Maintain a process to review and address complaints from students attending institutions approved to operate in that state.

Requirements for Institutions

Institutions must:

- Comply with any applicable state approval or licensure requirements in each state in which it 'operates' and be approved by that state [by name](#).
- Provide its students and prospective students with contact information for filing complaints with its accrediting agency and with the appropriate state agency.

Exceptions

- Federal institutions - meet provisions if authorized by name by the Federal Government. (Note: This implies an institution established by the Federal Government, not land grant institutions.)

- Tribal institutions - meet provisions if authorized by name by the tribal government.
- Religious institutions - if qualify as a religious institution, exempt from these requirements. (Note: A religious institution is defined as an institution that is owned, controlled, operated, and maintained by a religious organization and awards only religious degrees or certificates).

Timeline

These rules:

- Are effective July 1, 2011.
- Provide for extensions if an institution's state cannot provide the necessary authorization by July 1, 2011. An institution may request one-year extensions for the 2011-12 and 2012-13 award years. The institution's State has until July 1, 2013 to make any needed adjustments to assure that institutions in the State may meet the new regulatory requirements.

Distance or Correspondence Education

From the Federal Register (p. 66867): "If an institution is offering postsecondary education through distance or correspondence education in a State in which it is not physically located, the institution must meet any State requirements for it to be legally offering distance or correspondence education in that State. An institution must be able to document upon request from the Department that it has such State approval."

"A public institution is considered to comply with § 600.9 to the extent it is operating in its home State. If it is operating in another State, we would expect it to comply with the requirements, if any, the other State considers applicable or with any reciprocal agreement between the States that may be applicable."

Reciprocal Agreements

From the Federal Register (p. 66867): "If both States provide authorizations for institutions that comply with § 600.9 and they have an agreement to recognize each other's authorization, we would consider the institution legally authorized in both States as long as the institution provided appropriate documentation of authorization from the home State and of the reciprocal agreement."

Blog Postings

As we learn more, WCET will continue to blog on this subject. Current blog posts from earliest to most recent:

- [Distance Ed Institutions May Need More State Approvals](#) - An initial analysis of the impact of the regulations written the day they were released.
- [What do We Know About State Approval of Distance Ed?](#) - Three surveys provide us with some insight on existing state regulations and the possible impact for both state regulators and institutions.
- ["State Approval Regulations: Update on Conversations and Activities"](#): Posted on December 21, the post gives an update on several activities underway.

State Approval Updates from Other Organizations

- [Council for Higher Education Accreditation](#), November 3, 2010
- [National Association of Independent Colleges and Universities](#), December 14, 2010.

What's Next?

Many conversations have taken place over the past few weeks. Activities include:

- WCET is partnering with the Southern Regional Education Board, the American Distance Education Consortium, and the University of Wyoming to create an initial list of state regulatory agencies.
- The Presidents' Forum of Excelsior College and the Council of State Governments received a [grant from the Lumina Foundation for Education](#) to "develop a model interstate compact that provides a basis for more rational and efficient state approval of online programs, protects consumers and addresses barriers to student success."
- WCET is continuing to work on interpreting the questions that came from the webcast.
- The U.S. Department of Education will be releasing soon a letter clarifying elements of the regulations. Fred Sellers said that questions from the webcast were very helpful in determining where further clarification is need.

As more information becomes available, we will post updates to [WCET's blog](#).

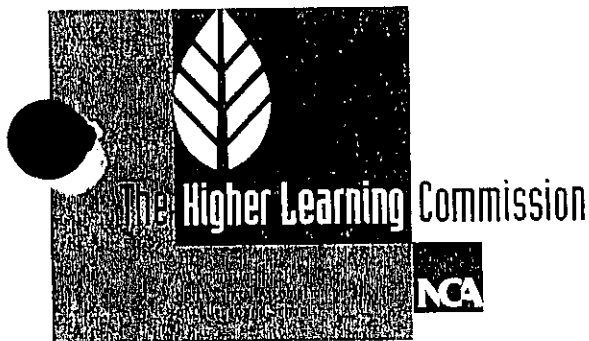
Frequently Asked Questions about the Federal Regulations

We've started compiling a [list of answers \(or as close as we can get\)](#) about what we have learned.

Compiled by:

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Deputy Director, Research & Analysis
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Last Updated: January 3, 2011.



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COMMISSION STATEMENT ON MARKETING PRACTICES AT FOR-PROFIT INSTITUTIONS

The Higher Learning Commission (HLC) has reviewed the report of the U.S. Government Accountability Office (GAO) on “For-Profit Colleges: Undercover Testing Finds Colleges Encouraged Fraud and Engaged in Deceptive and Questionable Marketing Practices.” The Commission applauds governmental exposure of deviation from ethical practice as well as fraud and abuse. Such governmental action forms a basis upon which the Commission may act with regard to its criteria for institutional integrity. Accordingly, the Commission has begun a process to determine the impact of this information on the accreditation status of those institutions identified in the report that are accredited by the HLC. Any actions resulting from this process will be posted on the Commission’s Web site.

Integrity is a stated core value of the Commission and is central to quality in higher education. We expect that accredited institutions will uphold and protect the integrity of their practices, and our standards require that they assure the clarity, accuracy, and availability of information related to their mission statements; their educational programs; their admissions requirements; their accreditation status; their student services; their tuition and other costs; their financial aid programs; and their policies related to transcripts, transfer of credit, and refunds.

In light of the recent rapid and dramatic changes in higher education, the Commission has been evaluating its policies and processes for ensuring institutional integrity and quality at all of its affiliated institutions. Some policy changes have been implemented over the past two years and others are anticipated in the year to come.

Comments and questions can be directed to president@hlcommission.org.