I am Tony Guida, Senior Vice President for Regulatory Affairs for Education Management Corporation. I appreciate the opportunity to testify today concerning the Department’s proposed gainful employment rule.

EDMC’s institutions, which include the Art Institutes, Argosy University, Brown Mackie Colleges, South University, and the Western State University College of Law, serve more than 158,000 students. We are proud of our long and proven record of student success, particularly with students who otherwise may have gone unserved by traditional models of higher education.

Let me begin by saying that we understand and support the Department’s desire to limit student indebtedness. EDMC already has in place a number of measures to enhance student financial literacy and encourage students to borrow responsibly.

We are here today to express our continuing concern that the proposed gainful employment rule will have a negative and significant impact on our students, particularly our low income and minority students. Estimates are that the rule as proposed would deny 400,000 students per year access to post-secondary education, the majority of whom will be women and minorities. We are also concerned that the rule discriminates against high quality degree programs, which is a significant issue for our students—94% of whom are enrolled in such programs. We believe that the proposed rule will worsen the already large bachelor’s degree attainment gaps that many minorities currently face in our country.

In an effort to engage constructively with the Department, EDMC has proposed several modest modifications to the proposed rule that we believe will substantially improve the rule and limit its unintended consequences. These modifications will appropriately refocus the rule on addressing “outlier” institutions and programs and will help to ensure that we achieve our shared goal of lessening students’ debt burdens while continuing to provide all students, especially those from traditionally underserved populations, with high-quality postsecondary education.

However, as we sit here over one year after the rulemaking process began, we still are unable to test this proposed rule with real data to determine its actual impact on students and the programs they attend. The Department’s Regulatory Impact Analysis falls far short of providing an accurate window into what students who attend our institutions will face once this rule becomes effective. The Department readily admits that the Missouri data significantly under-represents minority graduates. The Department’s Analysis could not, and accordingly did not, assess how many at-risk students will be displaced from their educational programs, how many of those students
have other realistic educational choices, and whether the negative effects on at-risk
students are in fact justified in light of other regulatory alternatives that are available.

Isn’t it absolutely critical that these questions are definitively answered before a
rule of this magnitude is implemented?

Given this lack of data and analysis, the Department’s intent to issue a final rule
at this juncture is akin to loading a newly developed airplane with hundreds of
passengers on its initial test flight to determine whether or not it can actually fly.

The Department’s Analysis also doesn’t address the notable, alternative
explanation for the performance of proprietary institutions under the proposed gainful
employment rule: that it is simply a reflection of the higher number of low-income and
other disadvantaged students that proprietary institutions enroll. Financial aid expert
Mark Kantrowitz analyzed the Department’s August 13 repayment rate data and noted
that “graphing this data demonstrates an almost linear relationship between the
percentage of Pell Grant recipients and the average loan repayment rates,” concluding
that “[a] college that enrolls primarily at-risk students who qualify for the Pell Grant is
extremely unlikely to have a loan repayment rate in the eligible or restricted zones.”

Rather than adjust for these correlations in setting appropriately tiered
thresholds for compliance, the proposed rule instead creates the perverse incentive for
proprietary institutions to avoid enrolling low income and minority students altogether.
The purpose of the Federal financial aid system is to help disadvantaged students
achieve their highest potential. The proposed rule does just the opposite, by limiting
access to education for disadvantaged students based on the very factors that caused
them to be disadvantaged in the first place.

The programs, skills and experience that proprietary schools deliver to students
who need us most are critical to this country’s economic recovery, to the creation of jobs,
and to the attainment of President Obama’s goal of becoming the world leader in
college graduates by the year 2020. The potential negative consequences of the
proposed rule to our students and to our country if we get this wrong are momentous.
We urge the Department to make sure it has the facts right before launching this
unguided missile. The stakes are too high to do otherwise.

Thank you for your consideration of these comments.