

Written Testimony of Dario A. Cortes, PhD

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**House Committee on Oversight and Government Reform, Subcommittee on Regulatory
Affairs, Stimulus Oversight, and Government Spending
and
House Committee on Education & the Workforce, Subcommittee on Higher Education and
Workforce Training**

**July 8, 2011 Joint Hearing on
“The Gainful Employment Regulation: Limiting Job Growth and Student Choice”**

Good Morning, Chairman Jordan, Chairwoman Foxx, Ranking Member Kucinich, Ranking Member Hinojosa and other distinguished Members of the respective committees. My name is Dr. Dario Cortes and I am privileged to serve as the President of Berkeley College. On behalf of the students, faculty, and administration at the College, and other family-owned, private sector colleges and universities in New York, New Jersey, and throughout the country, I applaud you for holding this joint hearing and I thank you for the invitation to share Berkeley College’s perspective on the impact of the new federal gainful employment regulation on communities, family-owned businesses, and jobs. While Berkeley College applauds the efforts of the Department of Education to enhance student success, we have serious concerns about the final rule. On the surface, the question of how the rule will affect our students, faculty, campuses, and programs seems quite clear; but the answer is decidedly less so. Because the honest response is: I just don’t know. Despite the changes included in the final version of the rule, institutions will essentially be navigating a minefield, blindfolded and using an outdated map.

Before I elaborate on the rule, I would like to provide you with a snapshot of Berkeley College. This year, the College celebrates our 80th anniversary. Since our founding in 1931, during the Great Depression, Berkeley College has been a leader in business education, and we now have an enrollment of nearly 9,000 students — including more than 800 international students — in our Baccalaureate and Associate degree programs. Originally founded as a training school for young women interested in pursuing secretarial careers, throughout the following years we have striven to be at the forefront of academic evolution and technological advancement by offering educational opportunities to traditionally ignored or underserved students, as well as embracing the newest technologies in the classroom. In 1966, the Berkeley College campuses were among the first to be accredited as two-year business schools by the Accrediting Commission for Business Schools. Today, the College is accredited by the Middle States Commission on Higher Education, and has been since 1983. Family owned and operated,

Berkeley College has four New York campuses, Midtown Manhattan, Lower Manhattan in the Wall Street area, Brooklyn, and White Plains; four New Jersey campuses, Woodland Park, Paramus, Woodbridge, and Newark; and Berkeley College Online. We also have Our student body is quite diverse, as it is comprised of 31 percent Hispanic, 29 percent African-American, 17 percent white, 4 percent Asian, and 19 percent other/unknown students. Women also make up 68 percent of enrollments, and 46 percent of our students are over the age of 23. Berkeley's program offerings are in more than 20 career fields including Health Services Administration and Management, Information Systems Management, Business Administration, Accounting, Criminal Justice, and Fashion Marketing and Management. Berkeley College Online also offers full degree programs. Our professors bring a rich array of "real world" experience to the classroom. Many have held positions of influence in the corporate world, and because we keep our classes small, our students are able to benefit from that experience on a one to one level. Additionally, more than 54 percent of our faculty members hold doctorates in their chosen fields.

I was appointed President of Berkeley College in July of 2008. Prior to accepting the position at the College, I held a broad range of positions at both private and public universities. I was the President and Executive Director of the American School Foundation, A.C. (ASF), Mexico City and Vice President for Academic Affairs at Fashion Institute of Technology, the State University of New York. In addition, I held the position of Dean at Fairleigh Dickinson University in New Jersey and Associate Dean of Graduate Studies and Research at the University of Maryland at College Park. I also served in many senior administrative and faculty positions, including those at Johns Hopkins University, North Carolina State University, and the University of Wisconsin – Madison. I bring up my professional history to illustrate that my postsecondary experience prior to my role at Berkeley College was largely defined as being within the “traditional” sector of higher education rather than the private sector. This institutional diversity has provided me with a broad, comprehensive understanding of the many issues facing postsecondary education. For the record, I am tremendously proud to be part of the Berkeley College legacy. The opportunity to serve as President has truly opened my eyes to the positive impact that our College has had on students who may have been left by the wayside if it were not for the College, as well as the vital role private sector colleges and universities play in educating, training, and empowering students to succeed in their careers.

As Berkeley has evolved over the past 80 years, we have created programs and undertaken initiatives to support the changing needs of our students and our communities. For example, we have cultivated relationships with the business communities surrounding our campuses, as well as the communities at large, to ensure that our graduates are prepared to provide a positive contribution to the community upon graduation, both as qualified members of the workforce and as upstanding citizens who believe in personally investing in the communities

where they live and work. We strongly believe in the importance of gaining work experience while students acquire their degrees, which is why internships are part of the required curriculum in order to graduate from Berkeley College. It is our belief that this work experience empowers our students to enter their chosen profession with confidence and with the practical understanding of how to succeed professionally. Additionally, we seek the input of Advisory Committees to draw upon the real world experience of professionals in each of our majors. These boards advise us regarding curriculum and internships. As an example of responding to the needs of the business community, our Medical Coding and Billing Program is highly effective in supporting the needs of the New York allied health job market. Berkeley College has the resources and infrastructure to respond quickly to the needs of a region where trained graduates are needed to support the local economy, and as new employment demands arise, we have the experience and ability to thoroughly and quickly create new programs that both meet the needs of employers and encourages economic growth. As each new program is created, a new Advisory Board is created to lend expertise.

Students choose Berkeley College for many reasons, including our specialized curriculum, small class sizes, convenient scheduling options, and commuter-friendly campuses. We have a very student-centric philosophy that can best be observed through our many programs and initiatives, which are aimed at encouraging financial literacy and reducing student debt, increasing retention and graduation rates, and providing scholarships and grants, to name a few. Some of these efforts are new, others have been in existence since the 1990s, and our Tuition Freeze Policy has been in existence since the 1980s. Following my submitted testimony you will find a more comprehensive listing and description of these programs. Choosing the college that will meet the specific needs of each student can be an overwhelming task, and we strive to ensure that every potential student is provided with the most transparent, understandable information possible.

Turning to the new federal gainful employment rule, my top three concerns are as follows: (1) the significant uncertainty regarding the actual impact of the new rule on students in both the short and long terms; (2) the continued lack of clarity on the debt-to-income ratio calculation and the lack of transparency about the data by which programs will be measured; and (3) the undue administrative burden the new federal rule will impose on our schools, as a result of the sweeping and complex nature of the metric.

First, we believe that the new federal rule imposes a layer of unnecessary confusion, in different respects, for both prospective and current students, as well as for institutions, rather than providing the transparency that is so necessary. The momentum and excitement to expand and grow Berkeley College has been lost, given the chilling effect that the federal rule will almost certainly have. More specific to our concerns with the metric, the first set of data

that the Department of Education will provide to schools to “help them identify and improve their failing programs and to help current and prospective students make informed choices,” for fiscal years 2012 and 2013, will actually measure the loan repayment histories of students who graduated or entered into loan repayment in the 2007-2010 timeframe, or even students who were enrolled in 2005-2007. Furthermore, the data that the Department of Education will primarily use to calculate the actual earnings of the students being measured - Social Security Administration data - is confidential. This means neither schools nor the Department of Education will ever have the opportunity to review or challenge the SSA data. The Department’s proposed SSA alternative data collection means are also impractical, as most states, New York included, do not have the appropriate data-collection systems in place, and most institutions, particularly smaller, family-owned schools, do not have the staff or the capability to conduct National Center for Education Statistics (NCES)-caliber internal surveys. The result of this convoluted process will almost certainly be confusion and uncertainty about the status of programs under the rule for students and schools, leaving the federal government the only entity completely in the know about the full impact of the rule.

The next issue I would like to address concerns the lack of clarity regarding the debt-to-income calculations, and institutions’ ability to exclude costs outside of tuition and fees, such as living expenses. While the Department acknowledges that students may take out loan funds over and above what is necessary to pay direct educational costs, the manner of excluding this “over borrowing” in the debt-to-income calculations does not provide a realistic picture of how much excess loan funds a student may actually receive. Students may receive many forms of financial aid, including: state grants, such as New York TAP Grants; Federal Title IV aid, including Pell Grants, SEOG, and Federal Perkins Loans; Post-9/11 GI Bill or Department of Defense Tuition Assistance Program funds; institutional aid; and more. In addition, students can take out up to the annual maximum of Federal subsidized and unsubsidized loans for which they are eligible even if those loan funds are not needed to pay direct educational costs – and institutions may not legally prevent the students from doing so. The federal gainful employment rule will allow institutions to report the total amount of tuition and fees for each student, and limit the amount of loan debt included in the debt-to-earnings calculations to this amount. However, this completely disregards borrowing on top of other financial aid received, and borrowing more than is necessary to pay educational costs. Students then receive these loan funds for “living expenses.” A simple fix to this problem would be to allow institutions to report the amount of funds disbursed to the student as “living expenses.” A field could easily be added to National Student Loan Data System to track this amount. The amount is auditable, and private sector institutions already track it for 90-10 purposes. Monitoring living expenses in this manner will provide an accurate picture of over borrowing by students. Additionally, allowing institutions to report actual over borrowing amounts will provide an additional check for the debt-to-earnings calculations. While institutions will not have the opportunity to verify income

information, they would be able to ensure only debt accumulated for actual educational charges is being included in the calculation.

Finally, I would like to discuss the regulatory burden that the new federal rule will impose on private sector institutions. While Berkeley College has always been in compliance with the strict state regulations in New York and New Jersey governing our sector of higher education – arguably the most stringent state higher education regulations in the nation the federal gainful employment rule will add significant additional and undue administrative burden imposed by the Department of Education, which will only result in diverting precious college resources away from our core mission of educating students in favor of gathering and maintaining volumes of data to report to Washington, none of which measures the quality of our institution or programs or the satisfaction of our students. We question why the new rule was constructed with such sweeping federal regulatory ambition over this sector of higher education when the Department of Education has many, many tools in its toolkit under current law to end the conduct of so-called “bad actors” who simply should not be in the business of educating students.

Chairman Jordan, Chairwoman Foxx, Ranking Member Kucinich, Ranking Member Hinojosa and other distinguished Members of the Joint Committee, this concludes my testimony. Again, I appreciate the opportunity to address the joint Subcommittee today and would be happy to answer any questions following my testimony.