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Meeting Student Expectations

What Happens if the Current Enrollment Boom Is Followed by a Job Placement Crash?

By Ron Holt & Sandy Lockwood

"It was the best of times, it was the worst of times…." That memorable opening in the Charles Dickens' classic, "A Tale of Two Cities," might also describe the climate that today is facing for-profit postsecondary institutions, particularly those that are accredited by national accrediting agencies, and are expected to meet outcome metrics based on normal economic conditions. On the one hand, hardly a week goes by without some national publication reporting record enrollment gains in the for-profit sector, such as the April 2, 2009 *U.S. News & World Report* story reporting that enrollments are up almost 20 percent from last year for the University of Phoenix, or the January 11, 2009 *Express News* story stating that for-profit institutions are sailing above the economic fray with enrollment increases averaging around 15 percent. And the enrollment booms are also reaching the traditional sector, as evidenced by a March 18, 2009 *Inside Higher Education* story about community colleges witnessing an enrollment "surge," an April 7, 2009 *Inside Higher Education* headline on **"Enrollment Booms at Georgia's Public Colleges,"** and a March 2009 *Career College Central* headline, **"Well-Regarded Public Colleges Get a Surge of Bargain Hunters."** On the other hand, the good news on enrollment is tempered by unemployment rates reaching levels of 8.5 percent or more—not seen in a quarter of a century—and headlines such as the March 4, 2009 *Time* headline, **"Job Forecast for College Seniors Grimmer Than Ever."** The *Time* story reported that one recent survey of employers indicates that many employers will be hiring 20 percent fewer graduates than last year, and some will not be making any new hires at all this spring.

Now, our accreditors and regulators watch anxiously to see if we can manage our bulging population. We just can't win—we either sacrifice financial opportunity and stability on the one hand or we face a regulatory crisis on the other hand.

In the proprietary career college sector, we are on an eternal balance beam. In good employment times, enrollment increases are often challenging or declining, but we have respectable placement rates. Our accreditors and regulators are happy with us, even when our bottom line is somewhat challenged by lower enrollments. But when the economy tanks and unemployment soars, our front doors swing wide open, we exceed our enrollment goals, and our financial strength rises. But then we face the bigger monster: can we place these rising numbers of graduates in a market where job opportunities are at an historical low? Now, our accreditors and regulators watch anxiously to see if we can manage our bulging population. We just can't win—we either sacrifice financial opportunity and stability on the one hand or we face a regulatory crisis on the other hand. And overshadowing all of this is our favorite "uncle"—the U.S. Department of Education (ED)! While the *HEOA* of 2008 does not allow ED to define or prescribe standards to be used by accreditors in assessing an institution's success in student outcomes, it anticipates that accreditors will set appropriate outcome standards and that the accreditors will monitor their institutions to assure that they meet them.

If current economic expectations do not soon improve, the obvious question is what are the consequences for institutions that accept surging cohorts of new students, but later find they are unable to place the required percentage of their graduates as they had done in past years?

Given the existence of national accrediting agency outcome standards that some proprietary institutions may not be able to meet for some or all of their programs, if current economic expectations do not soon improve, the obvious question is what are the consequences for institutions that accept surging cohorts of new students, but later find they are unable to place the required percentage of their graduates as they had done in past years?

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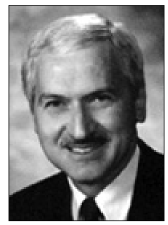

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One possible response is that nationally-accredited, for-profit institutions should not face any adverse consequences if they experience below standard placement outcomes as a result of one of the worst economic downturns in our nation's history. After all, as the headlines are reporting, graduates of all institutions—including those of degree programs at traditional public and private colleges accredited by regional accrediting agencies—are having difficulty finding jobs in this economy. And anybody following the regulatory landscape of higher education knows that the oversight light which regional accrediting bodies shine on student outcomes at public colleges and elite private colleges is noticeably dim in contrast to the intense beam that national accrediting agencies historically have focused on their proprietary institutions, energized by measurable objective outcomes in retention, licensing examinations and job placement. While such disparities in outcome accountability do not seem to be fair—to either the students of traditional institutions or to the proprietary institutions—the situation is not likely to change any time soon.

In the musical *Hello Dolly,* Dolly Levi tells her wealthy—and reluctant—suitor, Horace Vandegelder, that "money is like manure; it should be spread around encouraging young things to grow!" And that is exactly what the Congress and President Barack Obama are doing with the 2009 government stimulus package. They are spreading around money, a lot of it, aimed at boosting growth in our economy by stimulating consumer purchases, new capital investments and job expansion. But even this funding bonanza has a mandate that participants be held accountable for results with the funds they receive. As Secretary of Education Arne Duncan stated in an April 1, 2009 press release, "Given our economic circumstances, it's critical that money go out quickly, but it's even more important that it be spent wisely."

Given our current grim economic conditions, it might be advisable for proprietary institutions and their national accrediting agencies to jointly consider options that would apply in the event an institution's placement results fall below otherwise normal placement standards.

So, in principle it does not seem to be unreasonable or inappropriate to impose accountability, and specifically outcomes expectations, on schools and colleges that receive federal student aid funds. The real issue is whether general outcome levels are always appropriate or instead should be altered in extraordinary circumstances. Given our current grim economic conditions, it might be advisable for proprietary institutions and their national accrediting agencies to jointly consider options that would apply in the event an institution's placement results fall below otherwise normal placement standards, with such options to be based on the extent to which national, state or local unemployment rates exceed some agreed upon normative level. A similar concept is being advanced in a special adverse economic conditions default rate appeal that is being considered in the ongoing negotiated rulemaking sessions aimed at developing formal regulatory guidance for implementation of the new *HEOA* provisions.

The promotional materials and admissions processes of most institutions tend to imply that there are reasonably good prospects of employment for graduates.

While we support the idea, to some degree, of special recognition in the treatment of outcome standards to account for severe economic conditions, we also believe that, with enrollments nearly at all time highs and unemployment rising rapidly, all institutions and all accrediting agencies should conduct a searching and thoughtful analysis of enrollment or matriculation policies and anticipated placement dynamics, and ask themselves some tough questions.

Tough Questions for Institutions & Accrediting Agencies

- Do institutions have a moral, or paternalistic, obligation to turn away students seeking enrollment in programs where placement prospects may be falling due to current economic conditions, or to admonish them of greater uncertainties about employment opportunities?
- Do accrediting agencies expect institutions to conduct a traditional

"supply and demand" analysis of their programs and to impose enrollment limitations based on the outcome of such analysis? Is such an expectation reasonable in light of the feasibility, timeliness and cost of such analysis?

- Will schools that experience substantial enrollment increases be able to maintain reasonable placement rates to meet accrediting standards, and meet the objectives stated in their mission?
- What consequences will, or should, occur if placement rates plummet below what accrediting agencies have traditionally set as acceptable ranges?
- What mitigating circumstances will be considered by the accreditors?
- What role and weight should be given to the input of advisory committees and prospective employers?
- Are institutions at risk of facing potential student legal claims, both individual cases and class actions, if placement rates fall?
- Should institutions be required to provide disclaimers or updated 'unofficial' consumer information relative to any placement data that is provided to students, particularly where placement information provided usually is one or two years old and is not necessarily predictive of current employment rates?
- Do schools have any obligation to expand their placement efforts, including staffing and networking activities?
- Will accreditors apply normal penalties, such as show cause or withdrawal of program approval, to those schools who fail to reach currently established thresholds for placement?

We believe that the moral responsibility of institutions to their students must remain central in the answers to all of these questions. Students make decisions to attend career colleges largely on the basis of the vocational objectives promoted by the schools in their mission statements, their catalogs, their advertisements and marketing materials, and in their admissions processes.

If a career college has reliable current information, which strongly suggests that it cannot achieve placements at the minimal level set by its accrediting body, then it probably should NOT enroll a full capacity class or cohort, and instead should enroll a reduced size class reflecting lower placement expectations.

Accrediting agencies expect career colleges to describe their mission with some reference to the programs leading to vocational objectives. Therefore, it is reasonable for students to assume that there is a strong likelihood that the majority of graduates will find gainful employment in their field of study. To our knowledge, it is rare—and also highly inadvisable and possibly unlawful—for any institution to make any guarantee of placement or employment to prospective students, but the promotional materials and admissions processes of most institutions tend to imply that there are reasonably good prospects of employment for graduates.

Consideration also must be given to the institution's regulatory and moral responsibility to the U.S. Department of Education and the U.S. taxpayers. Most career schools seek and obtain accreditation in large measure to establish eligibility for their students to gain access to Title IV financial aid funds. These funds are made available to assist students in gaining specific vocational skills, which will help them obtain jobs in fields related to their training. So, in answering the foregoing questions about how well enrollments translate into placements and the consequences for shortcomings on the placement end of the process, the institution should be mindful of its role as a partner with the federal government in the mission of putting America through school.

Finding jobs for all graduates in this economy may require a much longer time horizon, especially as larger graduating classes pile up. This problem will be exacerbated by the escalating numbers of starts and lower turnover in jobs resulting from the increasing tendency of people to remain in their current positions.

So, to what degree are we in the private career school sector accountable for the decisions we make concerning the size, schedule and outcomes of each new class start or cohort of students? If a career college opens its doors to a full capacity of 1000 students, it should do so with a commitment that all of these students will receive a quality education, that a substantial percentage of them will complete their programs, and that a substantial percentage of the graduates, i.e., roughly 60–70 percent using the established thresholds of national accrediting agencies, will be placed in related employment positions. If a career college has reliable current information, which strongly suggests that it cannot achieve placements at the minimal level set by its accrediting body, then it probably should NOT enroll a full capacity class or cohort, and instead should enroll a reduced size class reflecting lower placement expectations.

Class size limits seem to be particularly advisable for those institutions which, prior to the start of the current economic downturn in late 2007 and early 2008, already were struggling to maintain their accrediting agencies' current standards, or were falling below those standards. And any institution that is experiencing, or expects to experience, annual enrollment growth of 20–30 percent, should implement measures to analyze employment opportunities and add additional staff and resources to expand available job opportunities. Finding jobs for all graduates in this economy may require a much longer time horizon, especially as larger graduating classes pile up. This problem will be exacerbated by the escalating numbers of starts and lower turnover in jobs resulting from the increasing tendency of people to remain in their current positions.

It is especially important for institutions to monitor their admissions representatives to assure that they are not making any inaccurate or misleading employment claims to prospective students.

Put yourself in the shoes of the working adult who, after being downsized out of a longstanding occupation into the ranks of the unemployed, found it necessary to pursue a new career in order to earn a livelihood. If you were that person and you chose to enroll at a particular career college to gain new skills that you were told would lead to a new career, but then you later found yourself unemployed many months after you had graduated and the institution told you that it could not do anything to help you, how would you feel about the college and what course of action might you take? If the institution had failed to establish or maintain a good relationship with you and you happened to meet an opportunistic plaintiffs' attorney, there is a pretty good chance you might be heading to court. This is not a far-fetched scenario as demonstrated by publications, such as: a treatise used by plaintiffs' lawyers proclaiming in 2003 that "[t]rade school fraud is still a significant problem"[1]; a 2006 *New York Times* story reporting that "a recurring question [with career colleges] is whether some schools are enrolling students who have little hope of graduating simply to capture the financial aid"[2]; a 2006 *Chronicle of Higher Education* story reporting that some critics believe career colleges "have engaged in aggressive and misleading recruiting and admissions tactics to inflate…enrollment…[and] to obtain student financial aid money"[3]; and, a Dallas plaintiffs lawyer Web page asking, "Have You Been Cheated by a For-Profit School?"[4]

An academic program may have "sizzle" and "curb appeal," but it may not be appropriate for an institution to offer the program if its typical student demographic does not match the profile of the average person holding jobs in this profession.

From a legal perspective, the extent of the institution's potential liability to the student under these circumstances should be a function of the accuracy and fairness of any pre-enrollment disclosures that the institution may have made to the student about employability of graduates. Institutions participating in the Title IV programs are required, under the so-called "Student Right to Know" law and regulations, to make annual written disclosures to their students about the overall completion or graduation rate for first-time undergraduate students,[5] but historically schools have not been obligated under Title IV to disclose any placement rates for the institution or any of its programs. But that changed with last year's passage of the *HEOA,* which now obligates institutions to disclose information about the types of employment obtained by graduates; the exact scope and nature of these mandatory disclosures will not be clear until new regulations have been issued later this year, but institutions have an obligation[6] to now make good faith efforts to comply with this new requirement.

Accrediting agency standards obligate career colleges to provide placement assistance and to assure accuracy in any disclosures they choose to make about employment opportunities within any particular career, but accreditors generally do not require institutions to make pre-enrollment disclosures to students about recent placement outcomes. There are, however, a few states, such as Nevada and Tennessee, whose licensing codes impose such an obligation.[7] But one common guideline seen with all regulators is that institutions may not make any express or implied promise or guarantee of employment to prospective students.

Whether on a mandatory or voluntary basis, any pre-enrollment disclosures or statements, verbal or written, that an institution makes about its historical placement results or the general prospects for employment within a specific career or vocation must be ethical, accurate, complete and not misleading. There is enough of a possibility that prospective students might be misled about employment—whether unintentionally or deliberately—that it is one of the specific issues at which the Federal

Trade Commission takes aim in its Industry Guides for Private Vocational and Distance Education Schools.[8] Of course, Title IV regulations also prohibit institutions from making misleading or deceptive communications about employment prospects,[9] as do the standards of all accrediting agencies and state licensing agencies, and serious violations of this fundamental prohibition can be the basis for regulatory sanctions.

Consequently, all institutions—even those with an express policy to not provide any placement or employment information to prospective students—should periodically and carefully review all advertisements and other printed materials to assure that there is no unintended guarantee of employment, and no inaccurate or misleading information about the institution's past placement results or the general employment prospects for any particular career. It is especially important for institutions to monitor their admissions representatives to assure that they are not making any inaccurate or misleading employment claims to prospective students.

Should some prospective students be deprived of the opportunity to enlarge their knowledge, qualifications and credentials by reason of enrollment quotas?

Under state laws banning unfair deceptive acts and practices (UDAP laws) and other state consumer protection laws, misrepresentations about past placement results or future employment prospects, if intentional, could serve as the basis for fraud claims by disgruntled students who have not been able to find jobs following graduation. Students asserting fraud could ask for punitive damages, along with a request for reimbursement of all institutional charges and payment of other actual damages. Even unintentional misrepresentations might support negligence claims in some states, under which students might be able to recover their institutional charges and other out-of-pocket expenses. It should also be noted that most state UDAP laws would allow a prevailing student to recover attorneys' fees from an offending institution, in addition to damages. We are not aware of any very recent lawsuits by graduates asserting claims over inability to obtain employment, but such cases have been filed in the past.[10] While there is no way to completely eliminate the risk of an unemployed graduate filing a UDAP lawsuit, institutions can reduce this risk and better position themselves to defend such claims by (i) requiring admissions representatives and other school employees to only provide written information about placement results and employment prospects, with an express statement that there is no guarantee of employment; (ii) updating past annual statistics with any less favorable more recent monthly information available from employers or government agencies; and (iii) maintaining supporting documentation for all such disclosures.

Institutions should be attempting to match class size to anticipated placement opportunities.

–Dr. Michale McComis
executive director
Accrediting Commission of Career Schools and Colleges of Technology

Unfavorable placement results can, of course, bring not only claims from unhappy unemployed graduates, but also oversight actions by accrediting agencies. In past responses to such actions, schools routinely have pointed to "mitigating factors," e.g., an at-risk population, certification/licensing testing schedules, and high unemployment in the local community. But should such factors give an institution a "pass" on taking a close look at the programs it offers and adjusting its schedules and enrollment levels? An academic program may have "sizzle" and "curb appeal," but it may not be appropriate for an institution to offer the program if its typical student demographic does not match the profile of the average person holding jobs in this profession. Additional relevant considerations are whether most people employed in this field have a higher level of education or experience than the institution's graduates, and whether the conditions in the institution's local geographic marketplace make it likely that there will be a sufficient number of jobs to meet placement expectations? The task of addressing these issues is, of course, something that should be periodically performed for all of the institution's programs by the institution's program advisory committee or board, a group that should include several area employers.

> ***Schools must look closely at admissions to calibrate the intake to reasonably match the market demand, and prospective enrollees need to be clearly apprised of a realistic outlook in a tight job market, more so in some fields than others.***
>
> ***– Roger Williams***
> ***executive director***
> ***Accrediting Council for Continuing Education and Training***

Then again, while educational programs offered by an institution should be relevant to identified needs in the relevant market, it is neither possible nor desirable to assure an exact mathematical match of enrollments to projected placement opportunities. Even in tough economic times with uncertainty about the volume of employment opportunities that will be available when today's new students become tomorrow's graduates, should we lower the window of higher education access with class size limitations driven by general placement benchmarks that are applied during times of lower unemployment? What is the right thing? What is in the best interest of prospective students, including recent high school graduates not sure of their vocational goals, the unemployed and underemployed adults seeking new employment opportunities? In answering this question, we must remember that, even if a relevant and educationally sound program of study does not always lead to an immediate employment opportunity, it will enlarge the knowledge, skills and qualifications of the student. Should some prospective students be deprived of the opportunity to enlarge their knowledge, qualifications and credentials by reason of enrollment quotas? That approach would appear to contradict ED's goal to support lifelong learning and it also would ignore the wisdom of an old Chinese proverb, which declares that "learning is like rowing upstream and not to advance is to drop behind." And, as President Obama declared in a speech in March, "Adults of all ages need opportunities to earn new degrees and new skills, especially in the current economic environment."[11]

So, what is the obligation of career colleges? Everybody agrees that they cannot guarantee jobs. So why should they be morally or legally responsible for a drop in placement rates resulting from factors beyond their control, such as a weak economy and high unemployment? Why should they have to turn away some portion of prospective students seeking enrollment who meet applicable admissions standards and would receive quality training?

After all, most national accrediting agencies have mitigating circumstances provisions that appear to be directed, at least in part, at troubled economic times. Under such provisions, institutions might be given more time for acceptable levels of placement to be achieved, and, thus, have their accreditation preserved beyond normally applied timeframes. So, are these mitigating circumstance provisions the answer to our questions, at least with respect to the ability of institutions to maintain their accreditation? To get a better sense of how the accrediting agencies themselves are addressing these issues, Sandy Lockwood discussed these issues with senior executives with several national accrediting agencies and learned that our national accrediting agencies and their commissioners are mindful of the placement challenges created by current economic conditions, and are applying thoughtful attention to how they should react to the "economy card."

Dr. Michale McComis, executive director of ACCSCT, said that institutions should be attempting to match class size to anticipated placement opportunities: "It is important for institutions that teach career oriented programs to calibrate the number of students enrolled with the employment opportunities likely available and to do this in a responsible way…(such) as to inform students in the admissions process what is the likelihood of employment…and to establish enrollment thresholds that achieve a reasonable balance between the number of students enrolled and the number of potential employment opportunities in the market." Dr. McComis further noted that "not all low rates of employment will be due to economic issues; some will be due to deficiencies in the quality of the educational program and some will be due to a combination of economic issues and deficiencies." He added, "Accredited institutions are encouraged to take a period of time to assess student outcomes and develop strategies…(and) if after a period of time allotted for monitoring of these activities, an institution does not show that it is achieving its desired results…the Commission may take an action that could ultimately affect the institution's accreditation."

Roger Williams, executive director of ACCET, told us that the ACCET Commission in 1997 established definitive benchmarks for institutional accountability relative to student outcomes, and that annual data collection and analysis since then have demonstrated a clear pattern of improvement by ACCET institutions in meeting and exceeding benchmarks of 67 percent completion and 70 percent placement. But Williams expects to see changes: "Year to date, there has been little apparent change of note on the placement activities and results that indicate any significant impact owing to the deteriorating economic and employment environment, except on admissions. Looking forward, it is likely that such deterioration will increasingly challenge both the schools and the accrediting agencies to more closely monitor and adapt to those economic conditions to ensure students continue to benefit from their investment of time and financial resources." As Mr. Williams sees it, ACCET institutions must adjust to the times: "Schools

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– Dr. Gary Puckett
executive director
Council on Occupational Education

must look closely at admissions to calibrate the intake to reasonably match the market demand, and prospective enrollees need to be clearly apprised of a realistic outlook in a tight job market, more so in some fields than others. The (ACCET) Commission will undoubtedly be looking to maintain the focus on standards that ensure students' aspirations and interests are served."

Dr. Gary Puckett, executive director of COE, expressed a philosophical outlook on oversight of outcomes: "Accountability is obviously important to COE since it is a core value. COE expects its schools to demonstrate outcomes accountability through completion, placement and licensure pass rates. The Council bases compliance on institutional percentage…not individual program performance. Therefore, higher performing programs many times offset the institution's percentage of weaker performing programs." But Dr. Puckett also stated that "when the economy decreases, so do the benchmarks." He further commented that, while there are no immediate plans at COE to change its procedures, the Commission will "consider the economic influences beyond the institutions' control and not impose unfair penalties."

We need to work more aggressively on becoming transparent and open to the world: 'Here is our track record. Judge us!'

– Mike Lambert
executive director
Distance Education and Training Council

Perhaps the foremost consideration in how institutions and accrediting agencies respond to the unique placement challenges posed by the economy is transparency. As DETC executive director Mike Lambert said, "We need to do a better job of disclosing our success to the public…. We need to work more aggressively on becoming transparent and open to the world: 'Here is our track record. Judge us!'" And former ACCSCT executive director Elise Scanlon, reflecting upon her years of experience, stated that "[o]utcomes are important as the ultimate goal of education, as well as a feedback loop to assess institutional effectiveness." She added that an outcomes assessment process "must include a predictable verification process to ensure that self-reported rates are accurate and supported with documentation." But she also urged caution on how outcome metrics are used: "Over reliance on quantitative assessments can be counterproductive. An effective model must also include qualitative analysis such as a review of programs by employers and other experts." Ms. Scanlon emphasized that graduation and employment rates, whether weak or strong, may have little to do with the quality of a program: "Learning is the most important outcome and is the most difficult to measure." Consequently, she believes that schools must avoid "uncoupling graduation and employment from the teaching/learning process" and instead should utilize a model of quality assurance that embraces an analysis of outcomes in a more expansive plan of program and institutional improvement.

And what is our opinion? We are both ideological conservatives. Sandy, now a consultant to schools, is a lifelong entrepreneur who has owned and operated schools for many years. Ron, an attorney in private practice, has provided legal counsel to schools on regulatory compliance. We believe in capitalism and its essential premise that informed consumers in free markets usually reward beneficial services and products, while avoiding and eventually eliminating others. Consequently, we believe that government at all levels should allow people to run their businesses, including career colleges, with minimal interference and should allow owners to make business decisions that work for their companies and keep people employed. But, we also strongly believe that career colleges have a moral obligation to be true to the mission that they proudly and publicly extol in their mission statements—to offer quality education in academic programs with vocational objectives, and to do so in an environment that enables students to reach their career goals.

Learning is the most important outcome and is the most difficult to measure. Schools must avoid "uncoupling graduation and employment from the teaching/learning process.

– Elise Scanlon
former executive director
Accrediting Commission of Career Schools and Colleges of Technology

If career colleges choose to offer programs to students seeking careers in specific disciplines or fields, then we believe they should accept the responsibility to utilize an admissions model and an instructional system, which ensure that the majority of their students will acquire the required knowledge and skills and have a reasonable opportunity to gain employment and be successful in those careers. This commitment seems to be inherent in the very choice of the career college model as the way to operate an institution of higher learning. Look at it this way. Career colleges already are granted a large margin in typical accrediting criteria for the statistical group of students who will not complete their programs, and for the portion of graduates who will not be placed within the reporting period. These criteria seem to provide a pretty broad allowance. Besides, if we were to compare educational services to consumer products, would any of us buy 100 computers if only 60–65 percent of them would arrive? And, would it be acceptable if only 70 percent of those computers that did arrive were in working order? The answer, of course, is no. If results like that actually occurred, we would be embroiled in litigation with the suppliers.

In conclusion, we believe that career colleges would do well to look at the outcome margins allowed them under general regulatory criteria as reasonable benchmarks for the business of career education. We also think that it is incumbent upon career colleges to make prudent decisions regarding the number of students they enroll, taking account of their good economy track record for completion and placement with some adjustment for the reasonably anticipated impact of today's economy. While we doubt that any career college can become recession-proof when it comes to its admissions practices and its placement results, we suggest the following measures:

Career colleges already are granted a large margin in typical accrediting criteria for the statistical group of students who will not complete their programs, and for the portion of graduates who will not be placed within the reporting period. These criteria seem to provide a pretty broad allowance.

Suggested Best Practices

(1). The institution's program advisory committees or boards should meet at least quarterly with the charge to address the effects of recessionary conditions on employment opportunities for each program, and to determine whether to recommend any temporary enrollment restrictions.

(2). All area employers who historically have served as the source for placement of substantial numbers of the institution's graduates should be surveyed (by phone, email or mail) at least quarterly with respect to their hiring plans.

(3). Management of the institution should conduct a timely review of the employer survey results and the recommendations of the program advisory committees or boards, and should determine whether to make changes in program offerings or content, admissions criteria, class size, or the admissions process. If management decides not to follow any recommendation of an advisory committee or board, the rationale for that decision should be set forth in a memorandum, which, along with any supporting documentation, should be kept in the institution's records.

The ability of career colleges to balance enrollment and revenue growth with accountability for student outcomes is what identifies these colleges as truly sound and effective academic institutions.

(4). The institution should adopt a written policy instructing all employees about the kind of placement information and career employment information that will be provided to prospective students, and a specific member of management should be charged with responsibility for obtaining such information and providing it to admissions representatives and other employees. All employees should be instructed on this policy and required to sign a written certification verifying that they will follow the policy.

(5). All written information given to prospective students about historical placement results and potential employment opportunities within specific careers and vocations should be (a) checked periodically and verified; (b) backed up by supporting records kept in the institution's files; (c) modified downward if recent information, even if less authoritative than historical figures, suggests considerably less favorable current employment opportunities; (d) qualified with the statement that past results may not accurately reflect current conditions or predict future developments; and (e) further qualified with the statement that the institution cannot and does not guarantee employment, but will make reasonable efforts to identify all available employment opportunities within the local community and will assist graduates in pursuing such opportunities.

There probably is no greater means of economic development and individual fulfillment than programs of higher education that lead individuals to new career opportunities. Benjamin Franklin, noted for his wisdom on many subjects, claimed that men "are most contented" when "they are employed," and Israel's first prime minister, David Ben-Gurion, added the thought that work is "the most dignified thing in the life of the human being." It is this contentment and dignity that has been, and should continue to be, the goal of all career colleges. The ability of career colleges to balance enrollment and revenue growth with accountability for student outcomes is what identifies these colleges as truly sound and effective academic institutions. It is a hallmark of the private career college sector that nationally accredited institutions expect to graduate and place a majority of their students. If career colleges continue to faithfully meet these distinguishing outcome benchmarks, they should stand out in today's world as the STARS among all institutions of higher learning—for the mission they serve and the countless lives they enrich and empower.

References:

[1] National Consumer Law Center (2003).

[2] *New York Times,* January 21, 2006.

[3] *Chronicle of Higher Education,* January 13, 2006.

[4] *See* http://www.vanweyjohnson.com/PracticeAreas/Educational-Fraud.asp

[5] *See* 20 U.S.C. § 1092; 34 C.F.R. § 668.45.

[6] *See Higher Education Opportunity Act,* Pub. L. 110-315 *(HEOA)*, § 488 (a)(1)(E), "(P)." The duty to make good faith efforts to implement *HEOA* provisions now is set forth in a Dear Colleague Letter issued on December 31, 2008, DCL 08-12.

[7] *See* Nev. Rev. Stat.§ 394.441.6.; Rules of Tennessee Higher Education Commission, Chap. 1540-1-2 (2008), §1540-1-2-.13(3).

[8] *See* 16 C.F.R. § 254.4.

[9] *See* 34 C.F.R. §§ 668.71 & 668.74.

[10] Some examples of prior litigation involving placement issues are: (1) a 2008 whistleblower lawsuit against Kaplan by former instructors, whose claims include allegations that students "were duped with false promises about their futures," as reported in a September 4, 2008 *Pittsburgh Tribune-Review* story; (2) a 2007 class action suit filed against Career Education Corporation by former Le Cordon Bleu Culinary Academy students, whose claims included allegations that the school failed to provide meaningful job placement assistance, as reported in an October 7, 2007 *San Francisco Weekly* story; (3) a 2007 investigation of Corinthian Colleges by the California Attorney General's office that addressed, in part, placement rates reported to prospective students, as reported in a July 3, 2007 *Los Angeles Times* story; and (4) a 2007 Kansas lawsuit brought by Vatterott graduates over inability to obtain employment, which was dismissed because this result "could be linked to a variety of factors, exclusive of the quality of education," *Jamieson v. Vatterott Educ. Center, Inc.,* 473 F. Supp. 1153, 1161 (D. Kan. 2007); and (5) a 1995 Georgia lawsuit brought against an institution by former students who alleged the school "failed to provide the promised quality of education or job placement." *Bartels v. Alabama Commercial College, Inc.,* 918 F. Supp. 1565, 1568 (S.D. Ga. 1995) (the case was dismissed).

[11] March 10, 2009 speech by President Barack Obama to the Hispanic Chamber of Commerce on "A Complete and Competitive American Education."

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