IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ASSOCIATION OF PRIVATE SECTOR COLLEGES AND UNIVERSITIES, Plaintiff, v. ARNE DUNCAN, in his official capacity as Secretary of the Department of Education; and UNITED STATES DEPARTMENT OF EDUCATION, Defendants.	Civil Action 11-1314 (RC)

DEFENDANTS' MOTION TO ALTER OR AMEND THE JUDGMENT

Pursuant to Federal Rule of Civil Procedure 59(e), defendants Arne Duncan, in his official capacity as Secretary of the Department of Education, and the Department of Education (collectively, the "Department") respectfully move the Court to alter or amend its June 30, 2012 Judgment (ECF No. 26). Specifically, the Department requests that the Judgment be amended to uphold the reporting requirements in 34 C.F.R. § 668.6(a) and the formulas and procedures used to calculate a program's repayment rate and debt-to-income ratios in 34 C.F.R. § 668.7(a)(2), (b), (c), (d), (e), and (f), to the extent that these provisions interact with the disclosure requirements contained in 34 C.F.R. § 668.6(b)-(c). Accompanying this motion are a memorandum of law in support of the motion and a proposed order.

Counsel for the Department contacted counsel for plaintiff pursuant to Local Rule 7(m) to determine if plaintiff opposes this motion. Plaintiff's response was as follows: "The Department did not make this motion available to APSCU for its review before filing but

described its contents, and counsel for APSCU informs us that they do not join this motion and will submit a filing in response."

Dated: July 30, 2012

Respectfully Submitted,

STUART F. DELERY
Acting Assistant Attorney General

RONALD C. MACHEN JR.
United States Attorney

SHEILA M. LIEBER
Deputy Director, Federal Programs Branch

/s/ Michelle R. Bennett
MARCIA BERMAN
Senior Trial Counsel (PA Bar No. 66168)
MICHELLE R. BENNETT
Trial Attorney (CO Bar No. 37050)
GREGORY DWORKOWITZ
Trial Attorney (N.Y. Bar Registration No. 4796041)
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue N.W. Room 7132
Washington, D.C. 20530
Tel.: (202) 514-2205
Fax: (202) 616-8470
Email: marcia.berman@usdoj.gov
Email: michelle.bennett@usdoj.gov

Attorneys for Defendants.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ASSOCIATION OF PRIVATE SECTOR COLLEGES AND UNIVERSITIES, Plaintiff, v. ARNE DUNCAN, in his official capacity as Secretary of the Department of Education; and UNITED STATES DEPARTMENT OF EDUCATION, Defendants.	Civil Action 11-1314 (RC)

MEMORANDUM OF LAW IN SUPPORT OF DEFENDANTS' MOTION TO ALTER OR AMEND THE JUDGMENT

INTRODUCTION

The Department respectfully requests that the Court alter or amend its June 30, 2012 Judgment (ECF No. 26) to uphold the reporting requirements contained in 34 C.F.R. § 668.6(a) and the formulas and procedures for calculating a program's repayment rate and debt-to-income ratios contained in 34 C.F.R. § 668.7(a)(2), (b) – (f). The Court vacated 34 C.F.R. § 668.7 (referred to hereinafter as "the gainful employment regulations") and 34 C.F.R. § 668.6(a) (referred to hereinafter as the "reporting requirements of the reporting and disclosure regulations" or the "reporting requirements") based on its determination that the Department's 35 percent repayment rate threshold for determining program eligibility was arbitrary. The Department does not challenge that determination in this motion; nor does the Department seek to use either of the vacated debt measure thresholds to determine a program's eligibility for Title IV, Higher Education Act ("HEA") funding. Instead, the Department seeks an amendment of the Judgment that will allow students, schools, and the Department to receive the full benefit of the

disclosure requirements of the reporting and disclosure regulations – benefits expressly recognized by this Court in upholding those requirements as a valid exercise of the Department's rulemaking authority. The disclosure requirements require schools to disclose a program's median loan debt, repayment rate, and debt-to-income ratios. But schools cannot disclose core pieces of this important information if the reporting requirements and the formulas and procedures for calculating a program's repayment rate and debt-to-income ratios remain vacated under the Court's Judgment. The Department, therefore, requests that the Court amend these portions of its Judgment so that schools can disclose to students the full range of valuable information required by the disclosure regulations.

BACKGROUND

This Court's June 30, 2012 Judgment vacated the gainful employment regulations and the reporting requirements of the reporting and disclosure regulations.[1] The Court nevertheless upheld the disclosure portion of the reporting and disclosure regulations, concluding that the disclosure requirements were valid and severable from the reporting requirements as a means of ensuring that "prospective students [are] better informed about the programs they are considering." Slip Op., ECF No. 25, at 36.

With respect to the gainful employment regulations, the Court did not find any fault with the *formulas* established by the Department to calculate a program's repayment rate or debt-to-income ratios. *See, e.g.*, Slip Op. at 27 (rejecting plaintiff's argument that the repayment rate formula is arbitrary because it considers loans in deferment or forbearance as not in repayment); *id*. (rejecting plaintiff's challenge to the debt-to-income ratios formulas based on the purported limited earnings window); *id*. at 25 & n.5 (rejecting plaintiff's claim that the repayment rate

[1] The Court also vacated the program approval regulations, but that portion of the Court's decision is not relevant to this motion.

formula reflects a school's demographics). Instead, the Court determined that the repayment rate *threshold* chosen by the Department for determining a program's eligibility for Title IV funding was arbitrary and capricious, because the Department did not "identify any expert studies or industry practices indicating that a repayment rate of 35 percent would be a 'meaningful performance standard.'" Slip Op. at 29. In other words, the Court determined that the Department had authority to measure a program's repayment rate and debt-to-income ratios and further determined that the formulas chosen by the Department for doing so were reasonable. But the Court concluded that the reasoning the Department provided in the final rule did not support establishing a repayment rate *threshold* of 35 percent as a failing score for purposes of determining program eligibility. Even though the Court determined that the reasoning supporting the failing score thresholds for the two debt-to-income measures was sufficient, the Court vacated the debt-to-income ratios as well as the remainder of the gainful employment regulations because the repayment rate and debt-to-income ratios were designed to work together in the gainful employment regulations. Slip Op. at 32.

The Court also vacated the reporting portion of the reporting and disclosure regulations under 20 U.S.C. § 1015c because, according to the Court, the information to be reported was not necessary for the operation of any Title IV program. Slip Op. at 33-34. The Court appears to have assumed that the only reason the Department promulgated the reporting requirements was to allow the Department to assess a program's eligibility based on the debt measure thresholds in the gainful employment regulations. Because the Court vacated those thresholds, it concluded that no separate basis existed to require schools to report gainful employment program data to the Department.

The Court, on the other hand, upheld the disclosure portion of the reporting and disclosure regulations. The Court explained that, unlike the reporting requirements, the disclosure requirements do not require programs "to report information to the Department, but only to disclose it to their prospective students." Slip Op. at 34. The Court concluded that the mandated disclosures "fall comfortably within . . . the Department's authority under the Higher Education Act." Slip Op. at 34. In determining that the disclosure requirements were severable from the remainder of the challenged regulations, the Court stated, "there is no reason to think that the Department's desire to see prospective students better informed about the programs they are considering was in any way dependent upon its intention to conduct its own assessments of those programs." Slip Op. at 36.

STANDARD OF REVIEW

Under Rule 59(e) of the Federal Rules of Civil Procedure, a court may alter or amend a judgment upon motion made within 28 days after entry of judgment. Courts typically consider several factors in ruling on a motion to alter or amend a judgment, including whether amendment is "need[ed] to correct a clear error or prevent manifest injustice." *Firestone v. Firestone,* 76 F.3d 1205, 1208 (D.C. Cir. 1996) (per curiam). A district court enjoys "considerable discretion" in addressing a motion under Rule 59(e). *Piper v. U.S. Dep't of Justice*, 312 F. Supp. 2d 17, 20 (D.D.C. 2004).

ARGUMENT

The Department requests that the Court permit the full disclosures required under the disclosure regulations that the Court upheld by altering or amending the portions of its June 30, 2012 Judgment vacating the reporting requirements, 34 C.F.R. § 668.6(a), and the formulas and procedures for calculating a program's repayment rate and debt-to-income ratios, 34 C.F.R. §

668.7(a)(2), (b) – (f). Amendment is necessary "to correct a clear error or prevent manifest injustice." *Firestone*, 76 F.3d at 1208. Specifically, the Court's decision to vacate these provisions was based on three misunderstandings. First, the Court did not acknowledge that the reporting requirements and debt measure formulas serve a valid and important information-sharing purpose independent of the Department's ability to assess and potentially terminate federal student aid for programs that do not satisfy the Department's debt measure thresholds. Second, contrary to the Court's understanding, the reporting requirements and debt measure formulas are necessary to enable the Department to provide schools with information they must disclose under the disclosure requirements that the Court upheld. Third, the reporting requirements do not require the Department to fold a new database into an existing one, as the Court suggested, Slip Op. at 33 n.8. Because of these misunderstandings, which are explained more fully below, the Court should alter or amend its Judgment. *See Atlantic States Legal Found. v. Karg Bros., Inc.*, 841 F. Supp. 51, 55 (N.D.N.Y. 1993) ("Reconsideration is warranted where, as here, a party demonstrates that the earlier ruling was premised upon a misunderstanding of a relevant regulatory scheme.").

I. THE REPORTING REQUIREMENTS AND DEBT MEASURE FORMULAS SERVE AN IMPORTANT INFORMATION-SHARING PURPOSE.

The Court apparently believed that the reporting requirements and debt measure formulas served only to allow the Department to "conduct its own assessments of [gainful employment programs]" by calculating repayment rates and debt-to-income ratios for the purpose of terminating eligibility for those programs that do not satisfy the Department's thresholds. Slip Op. at 36. But the reporting requirements and debt measure formulas also served a second, equally important purpose, which this Court implicitly recognized in upholding the disclosure requirements. The reporting requirements and debt measure formulas and procedures were

intended to result in calculated debt information being provided to each school for the school to include in its disclosures to prospective students so that students can make an informed decision about whether to enroll in a particular program.

This second purpose is described in detail in the June 13, 2011 final rule, where the Department addressed public comments about the disclosure requirements and their relation to the separate warnings that were required for programs failing the debt measure thresholds. The Department explained, "[w]e agree that disclosures and warnings serve very different purposes and students should have basic, comparable information across all gainful employment programs. Accordingly, in these final regulations, we are separating the disclosure and warning requirements." 76 Fed. Reg. 34,386, 34,431 (June 13, 2011). Under the final regulations, only schools with programs that failed the Department's debt measure thresholds had to provide warnings, but all schools, regardless of their performance under the thresholds, were required to make the disclosures set forth in 34 C.F.R. § 668.6(b)(1).[2] *Compare* 34 C.F.R. § 668.6(b) *with id*. § 668.7(j).

Together, the reporting and disclosure requirements for all gainful employment programs, not just the failing programs, establish the framework for students, prospective students, and the schools offering the programs to make meaningful comparisons about similar programs offered by different schools. This independent purpose for the reporting requirements and debt measure formulas and procedures supports severing them from the provisions that set thresholds to

[2] Similarly, the proposed reporting and disclosure regulations discussed requiring all programs to disclose information, including the median loan debt calculated by the Department, for information-sharing purposes. *See* 75 Fed. Reg. 34,806, 34,809 (June 18, 2010) ("[T]o better inform prospective students, proposed § 668.6(b) would require an institution to disclose on its Web site the cost, graduation and placement rates, job-related information for each of its programs, and debt levels of students who completed the program during the past three years.").

identify failing programs. *See Davis Cty. Solid Waste Mgmt. v. EPA*, 108 F.3d 1454, 1459 (D.C. Cir. 1997).

II. THE REPORTING REQUIREMENTS AND DEBT MEASURE FORMULAS ARE NECESSARY TO THE DISCLOSURE REQUIREMENTS.

The reporting requirements' and debt measure formulas' information-sharing purpose highlights the Court's second misunderstanding regarding the reporting and disclosure regulations. The Court believed that the reporting requirements and debt measure formulas were not necessary to the disclosure requirements. *See* Slip Op. at 34. Indeed, the Court specifically stated that the disclosure requirements "do[] not require gainful employment programs to report information to the Department." *Id.* Although this is true with respect to some of the disclosures required by 34 C.F.R. § 668.6(b)(1), it is not true with respect all of them. Specifically, schools do not possess all of the information necessary to make the disclosures required by § 668.6(b)(1)(v). That subsection requires schools to disclose "[t]he median loan debt incurred by students who completed the program *as provided by the Secretary*, as well as any other information *the Secretary provided* to the institution about that program." *Id.* § 668.6(b)(1)(v) (emphasis added). Further, the disclosures must be made in the "form issued by the Secretary . . . when that form is available." *Id.* § 668.6(b)(2)(iv).[3]

The Department published a draft template for providing the necessary disclosures in the Federal Register on April 13, 2011. 76 Fed. Reg. 20,635 (Apr. 13, 2011); *see also* AR400, AR426. This draft template was specifically discussed in the gainful employment final rule, where the Department explained that:

[3] The disclosures required by § 668.6(b)(1)(i)-(iv) do not require schools to report anything to the Department; schools already possess the information necessary to disclose the occupations for which its programs prepare students and their programs' on-time graduation rates, tuition and fees, and placement rates.

> The disclosure template will automate the process by which institutions can prepare the required disclosures and will include links to provide the appropriate Web sites of other institutions offering the same program that participate in the title IV, HEA student aid programs, thus allowing students to compare similar programs. With this template, and consistent with section 4 of Executive Order 13563, the Department is thus attempting to foster informed decisions and to improve the operation of the market through "disclosure requirements as well as provision of information to the public in a form that is clear and intelligible."

76 Fed. Reg. at 34,387. The draft template included a place for programs to disclose their repayment rate, AR426, indicating the Department's intent to include repayment rate among the "other information" that must be disclosed under 34 C.F.R. § 668.6(b)(1)(v). The Department subsequently revised the template to also require disclosure of a debt-to-income ratio. This revised template was presented at a Department organized conference held November 29 through December 2, 2011, and attended by nearly 7,000 financial aid professionals. *See* http://www.ifap.ed.gov/presentations/2011FSAConference.html (presentation 39, slide 30) (last visited July 30, 2012). The Department subsequently submitted the revised template to the Office of Management and Budget (OMB) on February 15, 2012, as part of a package of gainful employment information sent to OMB for review under the Paperwork Reduction Act, 44 U.S.C. § 3501, *et seq*. *See* http://www.reginfo.gov/public/do/PRAViewIC?ref_nbr=201201-1845-006&icID=200909 (select: Att Gainful Employment Output Document 30 day comment period 1 12 2012.pptx, p. 2) (last visited July 30, 2012). OMB approved the gainful employment data collection clearance package on March 19, 2012. *See* http://www.reginfo.gov/public/do/DownloadNOA?requestID=240905 (last visited July 30, 2012).

A program's median loan debt, repayment rate, and debt-to-income ratios cannot be disclosed by schools as required by § 668.6(b)(1)(v), which the Court upheld, unless schools first report certain data to the Department pursuant to the reporting requirements of the reporting and

disclosure regulations, which the Court vacated. Once the necessary data is reported by schools to the Department, the Department will calculate each program's median loan debt, repayment rate, and debt-to-income ratios (the latter two pursuant to the debt measure formulas and procedures in § 668.7(a)(2), (b) – (f)), and provide that information to schools so that schools can disclose the information to students. *See* 75 Fed. Reg. 66,832, 66,841 (Oct. 29, 2010) ("The Department will provide the median loan debt to an institution for each of its programs . . . . The institution would then disclose these debt amounts, as well as any other information the Department provides to the institution about its gainful employment programs, on its Web site and in its promotional materials to satisfy the requirements in § 668.6(b)(5)."). Thus, although the Court upheld the disclosure requirements, those requirements – particularly the requirements in § 668.6(b)(1)(v) – cannot be implemented without the reporting requirements and the debt measure formulas.

The following examples illustrate the necessity of the reporting requirements and debt measure formulas to the disclosure requirements. Under 34 C.F.R. § 668.6(b)(1)(v), schools must disclose a program's median loan debt, and provide repayment rate and debt-to-income ratios as additional information in the template that the Department developed. Schools, however, lack the necessary information to calculate their students' median loan debt in a uniform and consistent way. Only the Department can verify the accuracy of loan debt information reported by multiple schools and ensure that median debt calculations are performed the same way. Schools also do not have the information on their students' earnings needed to calculate debt-to-income ratios. Only the Department can obtain mean and median annual earnings data from the Social Security Administration which are needed to calculate debt-to-income ratios. The Department then combines that earnings data with the program-specific debt

information provided by schools using the formulas in § 668.7(c) to calculate a program's debt-to-income ratios. The Department will then provide those ratios to schools so that schools can disclose the information to prospective students pursuant to § 668.6(b)(1)(v).

As a result of the two misunderstandings described above, the Court did not consider that the reporting requirements are necessary for the Department to obtain the program-specific information needed to provide schools with essential parts of the intended program disclosures. For that reason, the Court erred in concluding that the reporting requirements are not "necessary for the operation of programs authorized by" Title IV as required under 20 U.S.C. § 1015c, or for fulfilling the disclosure requirements the Court upheld. Slip. Op. at 33. The reporting requirements are necessary to the operation of the disclosure requirements. And, as the Court recognized, the disclosure requirements, which are intended "to better inform prospective students," Slip Op. at 36, "fall comfortably within . . . the Department's authority under the [HEA]," *id*. at 34. *See also* 20 U.S.C. §§ 1221e-3, 3474.[4] The Court, therefore, should alter or amend the Judgment to uphold the reporting requirements and the debt measure formulas and procedures to the extent that they interact with the disclosure requirements to enable schools to make necessary disclosures.

The Department recognizes that the Court found the Department's reasoning for selecting a repayment rate threshold of 35 percent lacking and does not challenge that portion of the Court's decision here. Thus, the Department recognizes that, under the Court's order, it may not use the reporting requirements or the debt measure formulas or procedures to assess whether a

[4] The Department notes that, in addition to providing valuable information to prospective students, the reporting and disclosure regulations will also provide valuable information to schools. Specifically, schools can use the knowledge they obtain from the median loan debt, repayment rate, and debt-to-income ratios calculated by the Secretary to assess and improve the relative performance of their programs compared to other schools.

program satisfies the vacated debt measure thresholds or to determine a program's eligibility on that basis. Through this motion, the Department seeks only to use the reporting requirements and debt measure formulas and procedures to provide valuable information to schools and students – a purpose that is consistent with the Department's acknowledged authority to "better inform prospective students." Slip Op. at 36; *see also* 75 Fed. Reg. 66,835 (observing that the purpose of the disclosure requirements is "to enable students to make an informed choice about a program"); 76 Fed. Reg. 34,433 ("[A]n institution must provide a student with the information necessary to make reasoned and informed choices about pursuing an education.").

III. THE REPORTING REQUIREMENTS DO NOT REQUIRE THE DEPARTMENT TO FOLD A NEW DATABASE INTO AN EXISTING ONE.

The Court suggested in its decision that the reporting requirements may violate 20 U.S.C. § 1015c because the database used to maintain the reported information is not "a system (or successor system) that . . . was in use by the Secretary . . . as of the day before August 14, 2008." Slip Op. at 33 n.8 (quoting 20 U.S.C. § 1015c(b)(2)). The Court further suggested that the Department's interpretation, which would allow the Department to maintain the information reported pursuant to the reporting and disclosure regulations in the National Student Loan Data System ("NSLDS"), would "swallow the exception by allowing the Secretary to fold any new database into an existing one." *Id*. The Court, however, appears to have misunderstood the content of the NSLDS and the limited nature of the modifications to that database that are necessary to implement the reporting and disclosure regulations.

Congress explicitly directed the Department to create the NSLDS in 1992 as a comprehensive database with information on all Title IV, HEA loans, including data on borrowers and grant recipients. *See* 20 U.S.C. § 1092b; *see also* NSLDS Student Access, *available at* http://www.nslds.ed.gov/nslds_SA/ (last visited July 30, 2012). Congress set out a

non-exhaustive list of the types of information the NSLDS should contain, including, among other things, a borrower's name and social security number; characteristics of the borrower such as family income; institutions attended; the amount and type of loans received; other assistance received; the payment status of loans; and the remaining balances of outstanding loans. 20 U.S.C. § 1092b(a)-(b). The categories of information contained in the NSLDS have been altered since 1992 with no indication from Congress that such alterations are improper. *See* 75 Fed. Reg. 54,331 (Sept. 7, 2010) (indicating that notices regarding alterations in systems of records are sent to various congressional committees). Indeed, in the Higher Education Opportunity Act of 2008, when Congress added 20 U.S.C. § 1015c, Congress was well aware of the existence and use of the NSLDS database, because Congress made amendments to the statutory provision authorizing the NSLDS in the same 2008 Act. *See* Pub. L. No. 110-315, § 489 (amending 20 U.S.C. § 1092b). Yet Congress did not take any action to limit the Department's use of the NSLDS.

Although additional alterations to the NSLDS were necessary for the Department to calculate median loan debt, repayment rates, and debt-to-income ratios by program, those alterations are minor. The NSLDS contains a total of 979 data fields. To incorporate the data reported by schools under the regulations, the Department added 23 data fields to the NSLDS before the reporting requirements July 1, 2011 effective date. *See* http://ifap.ed.gov/nsldsmaterials/attachments/NSLDSGEUserGuide.pdf, at p. 20 (last visited July 30, 2012). The added data fields include, among other things, the Classification of Instructional Program (CIP) code for the program in which the student enrolled, completion date, level of study, loan debt, and aggregated income information on graduates of the particular gainful employment program. *Compare* 75 Fed. Reg. at 54,332-54,333 (showing categories of records

in the NSLDS pre-gainful employment regulations), *with* 76 Fed. Reg. 37,095, 37,097 (June 24, 2011) (showing categories of records in the NSLDS post-gainful employment regulations).

Thus, the Department is not creating a new database to implement the reporting requirements; nor is it folding a new database into an existing one. Rather, the reporting requirements require schools to input 23 new data fields directly into the NSLDS database that Congress expressly authorized for the purpose of collecting information on student loan borrowers. The Department's interpretation of the exception in 20 U.S.C. § 1015c(b)(2) to allow such alterations to an existing, congressionally-authorized, database is entirely reasonable.[5]

Accordingly, the Department requests that the Court amend the Judgment to uphold the reporting requirements and the debt measure formulas and procedures. This amendment will enable the Department to obtain from schools data about their programs that is necessary to calculate median loan debt, repayment rate, and debt-to-income ratios. The Department can then calculate and provide that information to schools so that schools can improve their programs and provide students with a full range of valuable information about their programs before students make important decisions regarding their future education and before they incur significant debt. The Department wishes to make clear that it will not use the vacated repayment rate or debt-to-income ratios thresholds to determine a program's eligibility. Nor will the Department disclose, or require schools to disclose, whether their programs meet the Department's vacated thresholds, and no program will be required to send warning letters because it failed the vacated thresholds.

[5] Alternatively, as the Department previously argued (and the Court did not address), the reporting requirements do not violate 20 U.S.C. § 1015c(a) because that section's prohibition on the "development . . . of a Federal database of personally identifiable information" was intended to prevent the Department from "track[ing] individual students over time." 20 U.S.C. § 1015c(a). The information collected pursuant to the reporting requirements, however, is not intended to track *students*. Rather, it is intended to provide students with valuable information on gainful employment *programs*.

Instead, schools will only have to disclose to students the raw debt measures (i.e., repayment rate and debt-to-income ratios). Students can then decide for themselves whether, based on these measures and any other relevant considerations, particular programs are right for them.

CONCLUSION

For the foregoing reasons, the Department respectfully requests that the Court alter or amend its June 30, 2012 Judgment. The Department requests that the Judgment be amended to uphold the reporting requirements in 34 C.F.R. § 668.6(a) and the formulas and procedures used to calculate a program's repayment rate and debt-to-income ratios in 34 C.F.R. § 668.7(a)(2), (b) – (f), to the extent that these regulations interact with the disclosure requirements to enable schools to make the disclosures mandated by 34 C.F.R. § 668.6(b)-(c).

Dated: July 30, 2012

Respectfully Submitted,

STUART F. DELERY
Acting Assistant Attorney General

RONALD C. MACHEN JR.
United States Attorney

SHEILA M. LIEBER
Deputy Director, Federal Programs Branch

/s/ Michelle R. Bennett
MARCIA BERMAN
Senior Trial Counsel (PA Bar No. 66168)
MICHELLE R. BENNETT
Trial Attorney (CO Bar No. 37050)
GREGORY DWORKOWITZ
Trial Attorney (N.Y. Bar Registration No. 4796041)
United States Department of Justice
Civil Division, Federal Programs Branch
20 Massachusetts Avenue N.W. Room 7132
Washington, D.C. 20530
Tel.: (202) 514-2205; Fax: (202) 616-8470
Email: marcia.berman@usdoj.gov
Email: michelle.bennett@usdoj.gov

Attorneys for Defendants.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

ASSOCIATION OF PRIVATE SECTOR COLLEGES AND UNIVERSITIES, Plaintiff, v. ARNE DUNCAN, in his official capacity as Secretary of the Department of Education; and UNITED STATES DEPARTMENT OF EDUCATION, Defendants.	Civil Action 11-1314 (RC)

[PROPOSED] ORDER GRANTING DEFENDANTS' MOTION TO ALTER OR AMEND THE JUDGMENT

Upon consideration of Defendants' Motion to Alter or Amend the Judgment, it is hereby ORDERED that Defendants' motion is GRANTED; and it is

FURTHER ORDERED that the Court's June 30, 2012 Judgment (ECF No. 26) is amended to uphold the reporting requirements in 34 C.F.R. § 668.6(a) and the formulas and procedures used to calculate a program's repayment rate and debt-to-income ratios in 34 C.F.R. § 668.7(a)(2), (b), (c), (d), (e), and (f), to the extent that these provisions interact with the disclosure requirements contained in 34 C.F.R. § 668.6(b)-(c).

SO ORDERED.

Dated: _____

_____
Rudolph Contreras
United States District Judge