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with interested parties, as well as public hearings on November 4th and November 5th. Hence, regulations were to be released in two phases. Final regulations to ensure program integrity in Federal financial aid programs would go into effect on July 1, 2011. These regulations

were to address “sections of gainful employment proposal as well as 13 other issues in an effort to protect students from aggressive or misleading recruiting practices and to provide consumers with better information about the effectiveness of career-college and training programs.”

**JUNE 2, 2011** | Obama Administration released final regulations requiring career college programs to better prepare students for “gainful employment,” or—and this is the kicker—risk losing access to Federal student aid. Under the final regulations, a program would be considered to lead to gainful employ-

## CAUSE & EFFECT

### HOW GAINFUL EMPLOYMENT, INCENTIVE COMPENSATION RULES, AND A TARGETED ATTACK ON THE SECTOR HAS CHANGED THE JOB MARKET IN FOR-PROFIT EDUCATION.

BY VINCENT SCARAMUZZO

**W**HAT A FIRESTORM! Good luck to anyone trying to keep up with all the changes in for-profit post-secondary education. The best legal and compliance teams nationwide seem to be collectively scratching their heads in confusion and disbelief. I have the fortune of speaking with many of these professionals nationwide each month, and have been doing my best to keep track of what is happening and how it is changing the employment landscape.

#### CAUSE: GAINFUL EMPLOYMENT

**NEGATIVE EFFECT:** Gainful Employment has caused many education companies and investment groups nationwide to reconsider acquisition or expansion at this time. With fewer new campuses opening, the opportunity for individuals outside of the sector to enter at the management level has been severely limited. Prior to this, we witnessed organizations taking chances on many “non-education” professionals to run their schools. In addition, rapid internal promotions that were once commonplace have come to a screeching halt. It is too soon to tell right now, but it is likely certain program offerings will be dropped because of the new rules resulting in some faculty and chairperson layoffs.

**POSITIVE EFFECT:** Gainful employment has put a premium on Career Service and other professionals who can navigate these new regulations. Schools now more than ever have refocused on getting their students placed in well-paying jobs. Career Service departments and the people who run them have never been more crucial to the success of a campus.

#### CAUSE: INCENTIVE COMPENSATION RULES

**NEGATIVE EFFECT:** Schools are trying to do more with less. Many reduced their admissions forces to offset increased base salaries. In addition, management’s tolerance for mediocre performance has gone down—schools simply can’t afford to keep anyone other than top performers employed.

**POSITIVE EFFECT:** The new incentive compensation rules have raised base salaries. With essentially all other types of compensation such as bonuses eliminated, schools and education companies had to give their best employees increases to help retain and make up for some of the lost income. It has also caused schools to re-evaluate who their best performers are. Those at the top are well positioned to leverage their success.

#### CAUSE: LITIGATION

**NEGATIVE EFFECT:** Litigation hurts the entire for-profit education sector and anyone affiliated with it. Starting with the schools, it not only tarnishes their reputation, but can drag down other similar schools. In general, it gives the entire sector a bad name. It also hurts the business of vendors who serve these schools. If the schools are impacted financially, they are less likely to take on additional expenditures. The result has a ripple effect that can leave thousands of employees downsized.

It seems the largest education corporations are easy targets because of their financial resources and tendency to settle out of court. Within the last month, I have read four or five articles outlining lawsuits these education giants are involved in.

Targeted attacks on the sector have caused many organizations, especially the publicly traded groups, to reduce costs quickly. Often the quickest way for any company to do this is by trimming its workforce. With an onslaught of investigations and lawsuits continuing to make the headlines every day, I think this pattern will continue for some time. Without question, litigation against for-profit schools is a job killer across the board.

**POSITIVE EFFECT:** I have to tell you, it is very tough to even suggest a silver lining here—but all this litigation has placed

ment if it meets at least one of the following three metrics: at least 35 percent of former students are repaying their loans (defined as reducing the loan balance by at least \$1); the estimated annual loan payment of a typical graduate does not exceed 30 percent of his or her discretionary income; or the

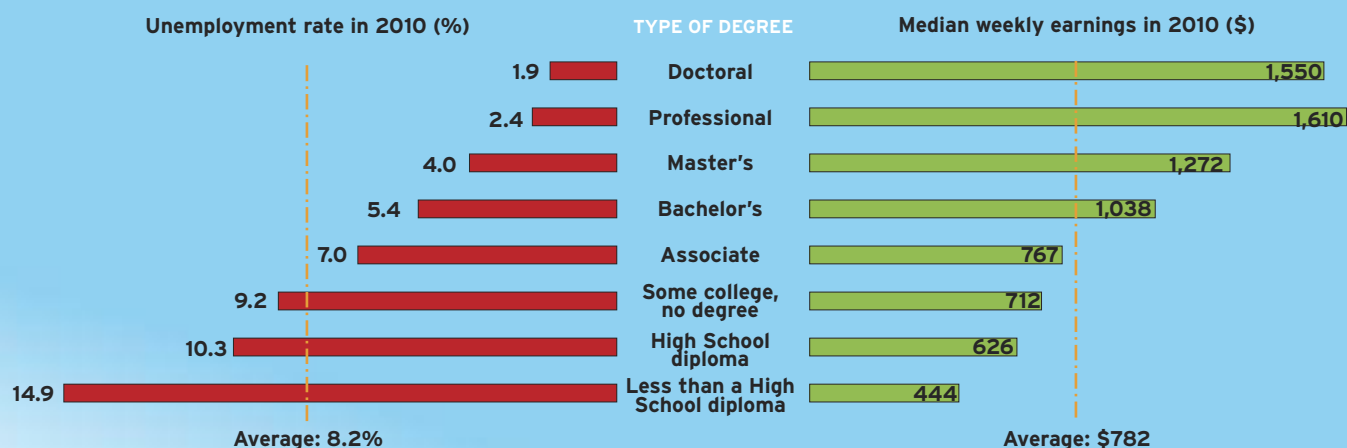
estimated annual loan payment of a typical graduate does not exceed 12 percent of his or her total earnings.

**JULY 1, 2011** | Phase one goes into effect. Some of the key provisions:

■ *Graduation Rate and Job Placement*

*Disclosures:* This rule would require proprietary institutions of higher education and postsecondary vocational institutions to provide prospective students with each eligible program's graduation and job placement rates, and require that colleges provide the

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Source: Bureau of Labor Statistics, Current Population Survey

a premium on Compliance professionals. Those that can navigate the new regulations while keeping their schools clear of litigation and other issues are considered rainmakers. I also think legal firms that specialize in for-profit education will see a huge spike in business as their services are sought after by those looking to safeguard their schools.

**THE BIG PICTURE**

Although a bit foggy right now, I think the big picture for employment in for-profit education will be much brighter than expected. Here is why:

- **DEMOGRAPHICS:** Depending on which survey you trust the numbers show approximately 70 million Baby Boomers getting close to or starting to retire. Generations X—their replacements—are only about 35 million strong. That is a massive worker shortage.
- **SPECIALIZATION AND GLOBALIZATION:** Now that we are in a global market, an employee's specific skillset is more important than ever. Specialized in-demand fields require properly trained employees. I still believe no one trains them better or faster than some of our for-profit schools.
- **UNEMPLOYMENT STATISTICS:** According to the Bureau

of Labor Statistics, unemployment is still relatively low for those who have some form of higher education (*see chart above*). If America is going to finally put this recession behind us, jobs are the key. The public education system cannot train everyone though. For-profit schools fill a serious void here and will continue to take on more of this responsibility moving forward. As a result, the demand for these schools will only continue to increase.

Companies are struggling more than ever to find distinguished leaders to run their campuses. In general, the current environment has placed a premium on these individuals. A great trainer once told me that “a recession is a process of creative destruction in which the inefficient and weak are weeded out.” If this holds true, I believe the efficient and strong have a bright future in for-profit education. **TC**



**VINCENT SCARAMUZZO** is the President and CEO of Ed-Exec, Inc. One of the leading executive search firms in education. He has consistently been ranked in the top 2% of all recruiters worldwide by Management Recruiter's International, the world's largest executive search firm. Vincent is also a contributing author to various education publications. As a specialist in the education field, Scaramuzzo works nationally with Universities, Colleges, Online and Career Schools. He can be contacted at Vincent@Ed-Exec.com (860) 781-7641.