ITT EDUCATIONAL SERVICES INC (ESI)

10-K

Annual report pursuant to section 13 and 15(d)
Filed on 02/24/2012
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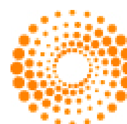

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UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

FORM 10-K
ANNUAL REPORT

(*Mark One*)

☒ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the fiscal year ended December 31, 2011

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the transition period from to

Commission file number 1-13144

ITT EDUCATIONAL SERVICES, INC.
(Exact name of registrant as specified in its charter)

Delaware	**36-2061311**
(State or other jurisdiction of incorporation or organization)	(I.R.S. Employer Identification No.)
13000 North Meridian Street Carmel, Indiana	**46032-1404**
(Address of principal executive offices)	(Zip Code)

Registrant's telephone number, including area code (317) 706-9200

Securities registered pursuant to Section 12(b) of the Act:

Title of each class	Name of each exchange on which registered
COMMON STOCK, $.01 PAR VALUE	**NEW YORK STOCK EXCHANGE, INC.**

Securities registered pursuant to Section 12(g) of the Act:
NONE

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☒ No ☐

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.
Yes ☐ No ☒

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☒ No ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§232.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files). Yes ☒ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act.

Large accelerated filer	☒	Accelerated filer	☐
Non-accelerated filer	☐ (Do not check if a smaller reporting company)	Smaller reporting company	☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☒

$2,106,011,586

Aggregate market value of the voting stock held by nonaffiliates of the registrant based on the last sale price for such stock at June 30, 2011 (assuming solely for the purposes of this calculation that all Directors and executive officers of the registrant are "affiliates").

26,171,270

Number of shares of Common Stock, $.01 par value, outstanding at January 31, 2012.

DOCUMENTS INCORPORATED BY REFERENCE

Portions of the following documents have been incorporated by reference into this Annual Report on Form 10-K:

IDENTITY OF DOCUMENT	PARTS OF FORM 10-K INTO WHICH DOCUMENT IS INCORPORATED
Definitive Proxy Statement for the Annual Meeting of Shareholders to be held May 8, 2012	PART III

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ITT EDUCATIONAL SERVICES, INC.
Carmel, Indiana

Annual Report to Securities and Exchange Commission
December 31, 2011

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PART I

Item 1. Business.

Forward-Looking Statements: All statements, trend analyses and other information contained in this report that are not historical facts are forward-looking statements within the meaning of the safe harbor provision of the Private Securities Litigation Reform Act of 1995 and as defined in Section 27A of the Securities Act of 1933 (the "Securities Act") and Section 21E of the Securities Exchange Act of 1934 (the "Exchange Act"). Forward-looking statements are made based on our management's current expectations and beliefs concerning future developments and their potential effects on us. You can identify those statements by the use of words such as "could," "should," "would," "may," "will," "project," "believe," "anticipate," "expect," "plan," "estimate," "forecast," "potential," "intend," "continue," and "contemplate," as well as similar words and expressions. Forward-looking statements involve risks and uncertainties and do not guarantee future performance. We cannot assure you that future developments affecting us will be those anticipated by our management. Among the factors that could cause actual results to differ materially are the following:

- *changes in federal and state governmental laws and regulations with respect to education and accreditation standards, or the interpretation or enforcement of those laws and regulations, including, but not limited to, the level of government funding for, and our eligibility to participate in, student financial aid programs utilized by our students;*
- *business conditions and growth in the postsecondary education industry and in the general economy;*
- *our failure to comply with the extensive education laws and regulations and accreditation standards that we are subject to;*
- *effects of any change in our ownership resulting in a change in control, including, but not limited to, the consequences of such changes on the accreditation and federal and state regulation of our campuses;*
- *our ability to implement our growth strategies;*
- *our failure to maintain or renew required federal or state authorizations or accreditations of our campuses or programs of study;*
- *receptivity of students and employers to our existing program offerings and new curricula;*
- *loss of access by our students to lenders for student loans;*
- *our ability to collect internal student financing from our students;*
- *our exposure under our guarantees related to private education loan programs; and*
- *our ability to successfully defend litigation and other claims brought against us.*

Readers are also directed to other risks and uncertainties discussed in "Risk Factors" and elsewhere in this Annual Report and those detailed from time to time in other documents we file with the U.S. Securities and Exchange Commission ("SEC"). We undertake no obligation to update or revise any forward-looking information, whether as a result of new information, future developments or otherwise.

You should keep in mind the following points as you read this report:

- *References in this document to "we," "us," "our" and "ITT/ESI" refer to ITT Educational Services, Inc. and its subsidiaries.*
- *The terms "ITT Technical Institute" or "Daniel Webster College" (in singular or plural form) refer to an individual school or campus owned and operated by ITT/ESI, including its learning sites, if any. The term "institution" (in singular or plural form) means a main campus and its additional locations, branch campuses and/or learning sites, if any.*

Background

We are a Delaware corporation incorporated in 1946. Our principal executive offices are located at 13000 North Meridian Street, Carmel, Indiana 46032-1404, and our telephone number is (317) 706-9200. From 1966 until our initial public offering on December 27, 1994, we were wholly owned by ITT Corporation, an Indiana corporation, formerly a Delaware corporation and formerly known as ITT Industries, Inc. ("Old ITT"). On September 29, 1995, ITT Corporation, a Nevada corporation ("ITT"), succeeded to the interests of Old ITT in the beneficial ownership of 83.3% of our common stock. ITT's beneficial ownership of our common stock ended in February 1999.

Overview

We are a leading proprietary provider of postsecondary degree programs in the United States based on revenue and student enrollment. As of December 31, 2011, we were offering master, bachelor and associate degree programs to approximately 73,000 students. As of December 31, 2011, we had 144 locations (including 141 campuses and three learning sites) in 39 states. In addition, we offered one or more of our online programs to students who are located in 48 states. We design our education programs, after consultation with employers and other constituents, to help graduates prepare for careers in various fields involving their areas of study. We have provided career-oriented education programs since 1969 under the "ITT Technical Institute" name and since June 2009 under the "Daniel Webster College" ("DWC") name.

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In 2011, we began operations at 11 new ITT Technical Institute campuses and discontinued operations at one learning site. We also continued our efforts to diversify our program offerings by developing programs at different levels in technology and non-technology fields of study that we intend to offer at our campuses and deliver entirely in residence, entirely online over the Internet or partially in residence and partially online.

Business Strategy

Our strategy is to pursue multiple opportunities for growth. We are implementing a growth strategy designed to:

- improve the academic outcomes of our students;
- increase the value proposition of our education programs for our students; and
- increase access to high-quality, career-based education.

We intend to pursue this strategy by:

- increasing student enrollment in existing programs at existing campuses;
- increasing the number and types of program and other educational offerings that are delivered in residence and/or online;
- increasing our students' engagement in their programs of study;
- enhancing the relevancy of our educational offerings;
- assessing student achievement and learning;
- improving the flexibility and convenience of how our institutions deliver their educational offerings;
- increasing our students' access to financial aid;
- helping our graduates obtain entry-level employment involving their fields of study at higher starting annual salaries;
- operating new campuses across the United States and new institutions in international markets;
- adding learning sites to existing campuses; and
- investing in other education-related opportunities.

The principal elements of this strategy include the following:

Enhance Results at Each Institution.

Increase Enrollments at Existing Campuses. We intend to increase recruiting efforts that are primarily aimed at delivering high-quality, career-based education to multiple adult-learner audiences.

Develop and Deliver Different Educational Offerings. We intend to develop and deliver different educational offerings that we believe offer graduates attractive returns on their educational investments.

As part of this strategy, we intend to further diversify our educational offerings by developing new programs of study in both technology and non-technology fields, but primarily in technology- and healthcare-related disciplines. We believe that those programs of study will be at different education levels and delivered in a variety of formats, including entirely in residence, entirely online or partially in residence and partially online. In 2011, we began offering 17 new programs of study and increased the number of our campuses that offer bachelor degree programs from 119 to 128.

We also believe that we should increase the number of programs of study that we offer to our students across our campuses. In 2011, we added a total of 1,343 programs among 132 campuses.

We believe that developing new programs of study, delivering programs in different formats and increasing the number of programs from which prospective students may choose, can:

- attract more, and a broader base of, students to our institutions;
- motivate current students to extend their studies;
- help improve student outcomes;
- increase the value proposition of our programs of study to our students;
- increase access to high-quality, career-based education; and
- improve the utilization of our facilities.

Improve Student Outcomes. We strive to improve the graduation and graduate employment rates of our students by:

- providing academic and career services;
- dedicating administrative resources to those services;
- increasing our students' engagement in their programs of study;
- enhancing the relevancy of our educational offerings;

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- assessing student achievement and learning; and
- increasing our students' access to financial aid.

Geographically Expand the Delivery of Our Educational Offerings. We plan to add new campuses and learning sites of our existing institutions at locations throughout the United States and new institutions in international markets. Using our proprietary methodology, we determine locations for new campuses and learning sites in the United States based on a number of factors, including demographics and population and employment growth. The following table sets forth the number of new campuses that began operations in the years indicated:

	2011	2010	2009
New campuses	11	9	10
Converted learning sites to campuses	0	0	5
	11	9	15

Provide Education-Related Services. We plan to develop and provide education-related services to students and other constituencies. These services may involve a variety of activities, primarily at the postsecondary level.

Programs of Study

As of December 31, 2011, the ITT Technical Institutes were offering 55 degree programs in various fields of study across the following schools of study:

- Information Technology ("IT");
- Electronics Technology;
- Drafting and Design;
- Business;
- Criminal Justice; and
- Breckinridge School of Nursing and Health Sciences.

We design our programs to help graduates prepare for careers in various fields involving their education by offering students a broad-based foundation in a variety of skills used in those fields. The following table sets forth examples of various fields involving the subject matter of programs within a particular school of study in which graduates have obtained entry-level positions:

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School of Study	Fields
Business	accounting business administration financial services manufacturing marketing and advertising sales
Drafting and Design	architectural and construction drafting civil drafting computer-aided drafting electrical and electronics drafting interior design landscape architecture mechanical drafting multimedia communications
Electronics Technology	communications computer technology electronics product design and fabrication industrial electronics instrumentation telecommunications
Criminal Justice	corrections cyber security investigations security and policing
IT	communications network administration network technology systems technology technical support
Breckinridge School of Nursing and Health Sciences	health information technology nursing

At the vast majority of our campuses, we generally organize the academic schedule for programs of study on the basis of four 12-week academic quarters in a calendar year, with new students beginning at the start of each academic quarter. At these campuses, students taking a full-time course load can complete our associate degree programs in seven or eight academic quarters, bachelor degree programs in 14 or 15 academic quarters and a master degree program in six or seven academic quarters. We typically offer classes in most residence programs in:

- 3.5- to 5.5-hour sessions three days a week, Monday through Saturday, with all program courses taught entirely or partially in residence; or
- sessions that are scheduled two to three days a week, Monday through Saturday, with certain program courses taught entirely or partially online over the Internet most academic quarters.

Depending on student enrollment, class sessions at the vast majority of our campuses are generally available in the morning, afternoon and evening. The courses that are taught online over the Internet are delivered through an asynchronous learning network and have a prescribed schedule for completion of the coursework. At the vast majority of our campuses, the class schedule for our residence courses and the coursework completion schedule for our online courses generally provide students with the flexibility to maintain employment concurrently with their studies. Based on student surveys, we believe that a majority of our students work at least part-time during their programs of study.

Most of our programs of study blend traditional academic content with applied learning concepts and have the objective of helping graduates prepare for a changing economic and/or technological environment. A significant portion of most programs offered at our campuses involves practical study in a lab environment.

The learning objectives of most courses in each program of study are substantially the same among the vast majority of our campuses to provide greater uniformity and to better enable students to transfer, if necessary, to other campuses offering the same programs with less disruption to their education. We regularly review each curriculum to respond to changes in technology and industry needs. Each of the ITT Technical Institutes establishes an advisory committee for each field of study taught at that campus, which is comprised of representatives of local employers and other constituents. These advisory committees assist the ITT Technical Institutes in assessing curricula, equipment and laboratory design, and updating the curricula. In addition to courses directly related to a student's program of study, our programs also include general education courses in the humanities, composition, mathematics, the sciences and the social sciences.

Tuition for a student entering an undergraduate residence program at an ITT Technical Institute in December 2011 for 36 quarter credit hours (the minimum course load for a full-time student for an academic year consisting of three academic quarters) was $17,748 for all ITT Technical Institute undergraduate residence programs, except as adjusted in one state to reflect applicable taxes and fees. Tuition for a student entering an undergraduate residence program at DWC in September 2011 for 24 semester credit hours (the minimum course load for a full-time student for an academic year consisting of two academic semesters) was $14,370 for all DWC undergraduate residence programs. The tuition amounts discussed above do not reflect institutional scholarships and grants which reduce the amount of tuition that students pay to attend our institutions. While we have typically increased tuition rates for our programs of study at least annually, we did not increase tuition rates for our ITT Technical Institute programs in 2011 and we do not intend to increase tuition rates for our ITT Technical Institute programs in 2012. The majority of students attending residence programs at our campuses lived in that campus' metropolitan area prior to enrollment. The only student housing that we provide is at the Nashua, New Hampshire campus of DWC.

Student Recruitment

We strive to attract students with the motivation and ability to complete the career-oriented educational programs offered by our campuses. To generate interest among potential students, we engage in a broad range of activities to inform potential students and their parents about our campuses and the programs they offer. These activities include television, Internet and other media advertising, social media, direct mailings and high school presentations. As of December 31, 2011, we employed approximately 1,500 full- and part-time recruiting representatives to assist in local recruiting efforts.

Local recruiting representatives of a campus pursue expressions of interest from potential students for our residence programs of study by contacting prospective students and arranging for interviews at the campus or any learning site of that campus. Occasionally, we also pursue expressions of interest from students for our residence programs of study by contacting them and arranging for their attendance at a seminar providing information about the campus and its programs. We pursue expressions of interest from potential students for our online programs of study by providing program and resource information on our websites and through telephone calls, electronic mail, social media and postal delivery.

Student recruitment activities are subject to substantial regulation at both the state and federal level and by our accrediting commissions. Most states have bonding and licensing requirements that apply to many of our representatives and other employees involved in student recruitment. Our National Director of Recruitment and Regional Directors of Recruitment oversee the implementation of recruitment policies and procedures. In addition, our compliance department reviews student recruiting practices at each of our campuses on at least an annual basis.

Student Admission and Retention

We require all applicants for admission to any of our campus' programs of study to have a high school diploma or a recognized equivalent. Depending on the program of study and the campus, applicants may also be required to:

- pass an admission examination;
- possess a designated number of credit hours or degree with a specified overall cumulative grade point average from an accredited postsecondary educational institution;
- complete the Scholastic Assessment Test or American College Testing examination; and
- tour the campus.

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The following table sets forth our student demographics as of the dates indicated:

Student Demographics	Approximate Percent of Student Census	
	December 31, 2011	December 31, 2010
Age		
19 or less	4%	6%
20 through 24	30%	31%
25 through 30	29%	29%
31 or over	37%	34%
Gender		
Male	72%	73%
Female	28%	27%
Race		
Caucasian	48%	51%
Other (1)	52%	49%

(1) Based on applicable federal classifications.

The faculty and staff at each of our campuses strive to help students overcome obstacles to the completion of their programs of study. As is the case in other postsecondary institutions, however, students often fail to complete their programs for a variety of personal, financial or academic reasons. Student withdrawals prior to program completion not only affect the students, they also have a negative regulatory and financial effect on the campus and the entire institution. To minimize student withdrawals, each of our campuses devotes staff resources to assist and advise students regarding academic and financial matters. We encourage academic advising and tutoring in the case of students experiencing academic difficulties. We also offer assistance and advice to students in our residence programs who are looking for part-time employment and housing.

Graduate Employment

We believe that the success of our graduates who begin their careers in fields involving their programs of study is critical to the ability of our campuses to continue to recruit students. We try to obtain data on the number of students employed following graduation. The reliability of such data depends largely on information that students and employers report to us. Based on this information, we believe that:

- approximately 70% of the Employable Graduates (as defined below) in 2010 had obtained employment by April 30, 2011 in positions that required the direct or indirect use of skills taught in their programs of study; and
- the percentage of Employable Graduates in 2011 who had obtained employment by February 15, 2012 in positions that required the direct or indirect use of skills taught in their programs of study was approximately 462 basis points higher than the percentage of Employable Graduates in 2010 who had obtained employment by February 15, 2011 in positions that required the direct or indirect use of skills taught in their programs of study.

"Employable Graduates" are defined in accordance with the graduate employment metrics that we are required to report by one of the accrediting commissions that accredits our institutions and include all of the graduates from the ITT Technical Institutes' programs of study in the applicable year, except for those graduates who:

- were pregnant, died or suffered other health-related conditions that prevented them from working;
- continued their education;
- were engaged in active U.S. military service;
- moved out of the United States with a spouse or parent who was engaged in active U.S. military service; or
- possessed visas that did not permit them to work in the United States following graduation.

Each of our campuses employs personnel to offer its students and graduates career services. These persons assist in job searches, solicit employment opportunities from employers and provide information on job search techniques, where to access employer information, writing resumes and how to prepare for, appear at and conduct oneself during job interviews.

Based on information from graduates and employers who responded to our inquiries, the reported annualized salaries initially following graduation averaged approximately:

- $31,300 for the Employable Graduates in 2010 who, as of April 30, 2011, had obtained employment in positions that required the direct or indirect use of skills taught in their programs of study; and
- 1% higher for the Employable Graduates in 2011 who, as of February 15, 2012, had obtained employment in positions that required the direct or indirect use of skills taught in their programs of study than the average annualized salaries reported by the Employable Graduates in 2010 who, as of February 15, 2011, had obtained employment in positions that required the direct or indirect use of skills taught in their programs of study.

The average annual salary initially following graduation for our Employable Graduates may vary significantly among the ITT Technical Institutes depending on local employment conditions and each Employable Graduate's particular program of study, background, prior work experience and willingness to relocate. Initial employers of Employable Graduates from programs of study at the ITT Technical Institutes include small, medium and large companies and governmental agencies.

Faculty

We hire faculty members in accordance with criteria established by us, the accrediting commissions that accredit our campuses and the state education authorities that regulate our campuses. We hire faculty with relevant work experience and/or academic credentials to teach most technical subjects. Faculty members at each campus typically include the chairperson for each school or program of study and various categories of instructors, including full-time and adjunct.

Administration and Employees

Each of our campuses is managed by a person who has overall responsibility for the operation of the campus. The administrative staff of each campus also includes managers in the major functional areas of that campus, including recruitment, finance, registration, academics and career services. As of December 31, 2011, we had approximately 5,800 full-time and 4,200 part-time employees. None of our employees are represented by labor unions.

Our headquarters provides centralized services to all of our campuses in the following areas:

- accounting
- marketing
- public relations
- curricula development
- management information systems
- purchasing
- legal
- regulatory
- legislative affairs
- real estate
- human resources
- compliance/internal audit

In addition, national managers of each of the following major campus functions reside at our headquarters and develop policies and procedures to guide these functions at our ITT Technical Institute campuses:

- recruiting
- financial aid
- academic affairs
- career services
- learning resources
- registration

Managers located at our headquarters monitor the operating results of each of our campuses and regularly conduct on-site reviews.

Competition

The postsecondary education market in the United States is highly fragmented and competitive, with no single private or public institution enjoying a significant market share. Our campuses compete for students with associate, bachelor and graduate degree-granting institutions, which include public and nonprofit private colleges and proprietary institutions, as well as with alternatives to higher education such as military service or immediate employment. We believe competition among educational institutions is based on:

- the quality and reliability of the institution's programs and student services;
- the reputation of the institution and its programs and student services;
- the type and cost of the institution's programs;
- the employability of the institution's graduates;
- the ability to provide easy and convenient access to the institution's programs and courses;
- the quality and experience of the institution's faculty; and
- the time required to complete the institution's programs.

Certain public and private colleges may offer programs similar to those offered by our campuses at a lower tuition cost due in part to government subsidies, foundation grants, tax deductible contributions, tax-exempt status or other financial resources not available to proprietary institutions. Other proprietary institutions offer programs that compete with those offered by our campuses. Certain of our competitors in both the public and private sectors have greater financial and other resources than we do.

Federal and Other Financial Aid Programs

In 2011, approximately 67% of our revenue determined on a cash accounting basis under the "90/10 Rule" calculation was from the federal student financial aid programs under Title IV (the "Title IV Programs") of the Higher

Education Act of 1965, as amended (the "HEA"). See "Risk Factors—Risks Related to Our Highly Regulated Industry – *One or more of our institutions may lose its eligibility to participate in Title IV Programs, if the percentage of its revenue derived from those programs is too high*" for a description of the 90/10 Rule. Our institutions' students also rely on unaffiliated private loan programs, internal student financing offered by us, family contributions, personal savings, employment, state financial aid programs, veterans' and military benefits, scholarships and other resources to pay their educational expenses. The primary Title IV Programs from which the students at our campuses receive grants, loans and other aid to fund the cost of their education include:

- the William D. Ford Federal Direct Loan (the "FDL") program, which represented, in aggregate, approximately 54% of our cash receipts in 2011; and
- the Federal Pell Grant (the "Pell") program, which represented, in aggregate, approximately 21% of our cash receipts in 2011.

Other sources of financial aid used by our students to help pay the cost of their education include:

- unaffiliated private loan programs, which represented, in aggregate, approximately 7% of our cash receipts in 2011;
- employment, personal savings and family contributions, which represented, in aggregate, approximately 4% of our cash receipts in 2011; and
- state financial aid programs, veterans' and military benefits and other resources, which represented, in aggregate, approximately 14% of our cash receipts in 2011.

The two principal unaffiliated private loan programs utilized by our students in 2011 are no longer available to our students after 2011. See "Management's Discussion and Analysis of Financial Condition and Results of Operations – Off-Balance Sheet Arrangements." As a result, we believe that there will be an increase in internal student financing in 2012. Increased amounts of internal student financing, scholarships and awards have and could continue to negatively impact our cash flows from operations, expose us to greater credit risk, and increase our bad debt expense and days sales outstanding.

Highly Regulated Industry

We are subject to extensive regulation by the U.S. Department of Education ("ED"), the state education and professional licensing authorities (collectively, the "SAs") and the accrediting commissions that accredit our campuses (the "ACs"). The statutes, regulations and standards applied by the ED, SAs and ACs are periodically revised and the interpretations of existing requirements are periodically modified. We cannot predict with certainty how any of the statutes, regulations and standards applied by the ED, SAs and ACs will be interpreted and implemented.

At the federal level, the HEA and the regulations promulgated under the HEA by the ED set forth numerous, complex standards that institutions must satisfy in order to participate in Title IV Programs. To participate in Title IV Programs, an institution must:

- receive and maintain authorization by the appropriate SAs;
- be accredited by an accrediting commission recognized by the ED; and
- be certified as an eligible institution by the ED.

The purposes of these standards are to, among other things:

- limit institutional dependence on Title IV Program funds;
- prevent institutions with unacceptable student loan default rates, federal student loan repayment rates and graduate median annual loan payments from participating in Title IV Programs; and
- in general, require institutions to satisfy certain criteria related to educational value, administrative capability and financial responsibility.

Most of the ED's requirements are applied on an institutional basis, with an institution defined by the ED as a main campus and its additional locations, if any. Under the ED's definition, we had three institutions as of December 31, 2011, comprised of two ITT Technical Institute main campuses and one DWC main campus. All of the remaining ITT Technical Institute campuses and the three learning sites are additional locations of the ITT Technical Institute main campuses under the ED's regulations. As of December 31, 2011, one ITT Technical Institute main campus had 136 additional locations and three learning sites and the second ITT Technical Institute main campus had two additional locations. The HEA requires each institution to periodically renew its certification by the ED to continue its participation in Title IV Programs. As of December 31, 2011, all 141 of our campuses and all three learning sites participated in Title IV Programs.

As of December 31, 2011, we operated one or more campuses in 39 states and our campuses recruited students in the remaining 11 states. Each of our campuses must be authorized by the applicable SAs to operate. The state laws and regulations that we must comply with in order to obtain authorization from the SAs are numerous and complex. As of December 31, 2011, each of our campuses had received authorization from one or more SAs. Campuses that

confer bachelor or master degrees must, in most cases, meet additional regulatory standards. Raising the curricula of our existing campuses to the bachelor and/or master degree level requires the approval of the applicable SAs and the ACs. State education laws and regulations affect our operations and may limit our ability to introduce degree programs or obtain authorization to operate in some states. If any one of our campuses lost its state authorization to operate in the state in which it is physically located, the campus would be unable to offer postsecondary education and we would be forced to close the campus. Closing multiple campuses for any reason could have a material adverse effect on our financial condition, results of operations and cash flows.

State authorization and accreditation by an accrediting commission recognized by the ED are required for an institution to become and remain eligible to participate in Title IV Programs. In addition, some states require institutions operating in the state to be accredited as a condition of state authorization. All of the ITT Technical Institutes are accredited by the Accrediting Council for Independent Colleges and Schools (the "ACICS"). DWC is accredited by the Commission on Institutions of Higher Education of the New England Association of Schools and Colleges (the "NEASC"). Both the ACICS and the NEASC are accrediting commissions recognized by the ED. The HEA specifies a series of criteria that each recognized accrediting commission must use in reviewing institutions. For example, accrediting commissions must assess the length of each academic program offered by an institution in relation to the objectives of the degrees or diplomas offered. Further, accrediting commissions must evaluate each institution's success with respect to student achievement.

In August 2011, the ACICS classified one of our ITT Technical Institute institutions, which consists of a main campus and 136 additional locations and three learning sites, as a centrally controlled institution under the ACICS criteria. During 2011, the ACICS evaluated 15 ITT Technical Institutes for initial grants of accreditation. As of December 31, 2011, the ACICS had granted initial accreditation to all 15 of those ITT Technical Institutes. None of the ITT Technical Institutes are on probation with the ACICS, but 11 ITT Technical Institutes are subject to an outcomes review with respect to graduate placement and eight ITT Technical Institutes are subject to an outcomes review with respect to student retention by the ACICS. Under the ACICS standards, a campus that is subject to a financial or outcomes review must periodically report its results in those areas to the ACICS and obtain permission from the ACICS prior to applying to add a new program of study. We do not believe that these limitations will have a material adverse effect on our expansion plans.

DWC had been subject to a notice of concern from the NEASC with respect to DWC's financial condition dating back to before we acquired DWC in 2009. In April 2011, the NEASC removed that notice of concern as a result of its evaluation of DWC's financial condition following its change of ownership and control resulting from our acquisition of the college.

The statutes, regulations and standards applied by the ED, SAs and ACs cover the vast majority of our operations, including our:

- academic affairs;
- educational programs;
- facilities;
- academic and administrative staff;
- administrative procedures;
- marketing;
- student recruitment;
- compensation practices; and
- financial operations and financial condition.

These requirements also affect our ability to:

- add new campuses and learning sites;
- add new, or revise or expand our existing, educational programs; and
- change our corporate structure and ownership.

Each of the campuses and learning sites that we added from 2009 through 2011 constitutes an additional location under the ED's regulations, except for the DWC campus, which constitutes a main campus under the ED's regulations. The HEA requires a proprietary institution to operate for two years before it can qualify to participate in Title IV Programs. If an institution that is certified to participate in Title IV Programs establishes an additional location and receives all of the necessary SA and AC approvals for that location, that additional location can participate in Title IV Programs immediately upon being reported to the ED, unless the institution will offer at least 50% of an entire educational program at that location and any one of the following restrictions applies, in which case the ED must approve the additional location before it can participate in Title IV Programs:

- the institution is provisionally certified to participate in Title IV Programs;

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- the institution receives Title IV Program funds under the ED's reimbursement or cash monitoring payment method;
- the institution acquired the assets of another institution that provided educational programs at that location during the preceding year and participated in Title IV Programs during that year;
- the institution would be subject to loss of eligibility to participate in Title IV Programs, because the additional location lost its eligibility to participate in Title IV Programs as a result of high student loan cohort default rates under the Federal Family Education Loan ("FFEL") and/or the FDL programs; or
- the ED previously notified the institution that it must apply for approval to establish an additional location.

The accreditation standards of our ACs generally permit an institution's main campus to establish additional campuses. Our campuses that are treated as additional locations of the main campus under the ED's regulations and the ACICS accreditation standards are treated as branch campuses under the accreditation standards of the NEASC. Our learning sites are classified as additional locations of the main campus under the ED's regulations, as campus additions under the ACICS accreditation standards, and as instructional locations of the main or branch campus under the NEASC accreditation standards.

The laws and regulations in most of the states in which our campuses are located treat each of our campuses as a separate, unaffiliated institution and do not distinguish between main campuses and additional locations or branch campuses, although many states recognize other locations within the state where educational activities are conducted and/or student services are provided as learning sites, teaching sites, satellite campuses or otherwise. In some states, the requirements to obtain state authorization limit our ability to establish new campuses, add learning sites or instructional locations, offer new programs, recruit and offer online programs.

The HEA and applicable regulations permit students to use Title IV Program funds only to pay the cost associated with enrollment in an eligible program offered by an institution participating in Title IV Programs. Prior to July 1, 2011, a proprietary institution that was eligible to participate in Title IV Programs could generally add a new educational program without the ED's approval, if that new program: (a) led to an associate level or higher degree and the institution already offered programs at that level; or (b) prepared students for gainful employment in the same or a related occupation as an educational program that had been previously designated as an eligible program at the institution and met minimum length requirements. Otherwise, the proprietary institution had to obtain the ED's approval before it could disburse Title IV Program funds to students enrolled in the new program.

Since July 1, 2011, a proprietary institution must notify the ED at least 90 days in advance of starting classes in any new program of study. The notice must include, among other things, information with regard to:

- how the institution determined that a need for the program existed;
- how the program was designed to meet local market needs for programs delivered in residence, or regional or national market needs for programs delivered by distance education over the Internet;
- any wage analysis that the institution performed;
- how the program was reviewed or approved by, or developed in conjunction with, business advisory committees, program integrity boards, public or private oversight or regulatory agencies and businesses that would likely employ graduates;
- the inclusion of the program in the institution's accreditation;
- the date that the institution plans to start classes in the program; and
- how the program would be offered in connection with, or in response to, any applicable initiative by a governmental entity.

The ED will review the notice submitted by the proprietary institution and advise the institution whether the new program of study must be approved by the ED. We do not know how the ED has been applying its regulations in this area. If we are required to obtain approval from the ED for any new programs of study and are unable to obtain the ED's approval in a timely manner, our ability to offer the new program of study would be impaired, which could have a material adverse effect on our expansion plans, financial condition, results of operations and cash flows.

On September 27, 2011, the ED issued a Notice of Proposed Rulemaking ("NPRM") that would eliminate the notice and approval requirement for certain new programs of study. Under the ED's September 27, 2011 NPRM, unless the ED otherwise notifies a proprietary institution, that institution would only have to apply to the ED for approval of those new programs of study that are:

- the same as, or substantially similar to, programs that were voluntarily discontinued by the institution at the time those programs were failing under the ED's requirements related to a program of study that leads to gainful employment in a recognized occupation (the "GE Requirements");
- the same as, or substantially similar to, programs that became ineligible under the GE Requirements; or
- substantially similar to programs that are failing under the GE Requirements.

The HEA and its implementing regulations require each institution to periodically reapply to the ED for continued certification to participate in Title IV Programs. The ED recertifies each institution deemed to be in compliance with the HEA and the ED's regulations for a period of six years or less. Before that period ends, the institution must apply again for recertification. The current ED certifications of our institutions expire on: March 31, 2015 for each of our two ITT Technical Institute institutions; and June 30, 2012 for our one DWC institution.

The ED may place an institution on provisional certification for a period of three years or less, if it finds that the institution does not fully satisfy all the eligibility and certification standards. If an institution successfully participates in Title IV Programs during its period of provisional certification but fails to satisfy the full certification criteria, the ED may renew the institution's provisional certification. The ED may revoke an institution's provisional certification without advance notice, if the ED determines that the institution is not fulfilling all material requirements. If the ED revokes an institution's provisional certification, the institution may not apply for reinstatement of its eligibility to participate in Title IV Programs for at least 18 months. If the ED does not recertify the institution following the expiration of its provisional certification, the institution loses eligibility to participate in Title IV Programs until the institution reapplies to participate and the ED certifies the institution to participate. The ED may also more closely review an institution that is provisionally certified, if it applies for approval to operate a new location or offer a new program of study that requires approval, or makes some other significant change affecting its eligibility. Provisional certification does not otherwise limit an institution's access to Title IV Program funds. Neither of our ITT Technical Institute institutions is provisionally certified to participate in Title IV Programs. DWC, however, is provisionally certified to participate in Title IV Programs, due to:

- DWC's failure to satisfy the ED's financial responsibility requirements prior to its acquisition by us; and
- DWC's change in ownership as a result of its acquisition by us.

DWC's provisional certification expires on June 30, 2012.

The internal audit function of our compliance department reviews our campuses' compliance with Title IV Program requirements and conducts an annual compliance review of each of our campuses. The review addresses numerous compliance areas, including:

- student tuition refunds and return of Title IV Program funds;
- student academic progress;
- student admission;
- graduate employment;
- student attendance;
- student financial aid applications; and
- student financial aid awards and disbursements.

Each of our institutions' administration of Title IV Program funds must also be audited annually by an independent accounting firm, and the resulting audit report must be submitted to the ED for review.

Due to the highly regulated nature of the postsecondary education industry, we are subject to audits, reviews, inquiries, complaints, investigations, claims of non-compliance or lawsuits by federal and state governmental agencies, guaranty agencies, the ACs, present and former students and employees, shareholders and other third parties, which may allege violations of statutes, regulations or accreditation standards or common law causes of action (collectively, "Claims"). If the results of any Claims are unfavorable to us, we may be required to pay money damages or be subject to fines, penalties, injunctions, operational limitations, loss of eligibility to participate in federal or state financial aid programs, debarments, additional oversight and reporting, other civil and criminal penalties or other censure that could have a material adverse effect on our financial condition, results of operations and cash flows. Even if we satisfactorily resolve the issues raised by a Claim, we may have to expend significant financial and management resources, which could have a material adverse effect on our financial condition, results of operations and cash flows. Adverse publicity regarding a Claim could also negatively affect our business.

See "Risk Factors – Risks Related to Our Highly Regulated Industry" for a discussion of particular risks associated with our highly regulated industry.

Shareholder Information

We make the following materials available free of charge through our website at www.ittesi.com as soon as reasonably practicable after such materials are electronically filed with or furnished to the SEC under the Exchange Act:

- our annual reports on Form 10-K and all amendments thereto;
- our quarterly reports on Form 10-Q and all amendments thereto;
- our current reports on Form 8-K and all amendments thereto; and
- various other filings that we make with the SEC.

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We also make the following materials available free of charge through our website at www.ittesi.com:

- our Corporate Governance Guidelines;
- the charter for each of the Audit, Compensation, and Nominating and Corporate Governance Committees of our Board of Directors; and
- our Code of Business Conduct and Ethics ("Code").

We will provide a copy of the following materials without charge to anyone who makes a written request to our Investor Relations Department at ITT Educational Services, Inc., 13000 North Meridian Street, Carmel, Indiana 46032-1404 or by e-mail through our website at www.ittesi.com:

- our annual report on Form 10-K for the year ended December 31, 2011, excluding certain of its exhibits;
- our Corporate Governance Guidelines;
- the charter for each of the Audit, Compensation, and Nominating and Corporate Governance Committees of our Board of Directors; and
- the Code.

We also intend to promptly disclose on our website at www.ittesi.com any amendments that we make to, or waivers for our Directors or executive officers that we grant from, the Code.

Item 1A. Risk Factors.

In addition to the other information contained in this report, you should consider carefully the following risk factors in evaluating us and our business before making an investment decision with respect to any shares of our common stock. This report contains certain statements that constitute "forward-looking statements" within the meaning of Section 27A of the Securities Act and Section 21E of the Exchange Act. These forward-looking statements are based on the beliefs of, as well as assumptions made by and information currently available to, our management. All statements which are not statements of historical fact are intended to be forward-looking statements. The forward-looking statements contained in this report reflect our or our management's current views and are subject to certain risks, uncertainties and assumptions, including, but not limited to, those set forth in the following Risk Factors. Should one or more of those risks or uncertainties materialize or should underlying assumptions prove incorrect, our actual results, performance or achievements in 2012 and beyond could differ materially from those expressed in, or implied by, those forward-looking statements.

Risks Related to Our Highly Regulated Industry

Failure of our campuses to comply with the extensive regulatory requirements for school operations could result in financial penalties, restrictions on our operations, loss of federal and state financial aid funding for our students or loss of our authorization to operate our campuses. To participate in Title IV Programs, an institution must receive and maintain authorization by the appropriate SAs, be accredited by an AC recognized by the ED and be certified as an eligible institution by the ED. As a result, our campuses are subject to extensive regulation by the ED, SAs and ACs, which cover the vast majority of our operations. The ED, SAs and ACs periodically revise their requirements and modify their interpretations of existing requirements. We cannot predict with certainty how all of the requirements applied by these agencies will be interpreted or implemented or whether all of our campuses will be able to comply with all of the requirements in the future.

If our campuses failed to comply with any of these regulatory requirements, these agencies could:

- impose monetary fines or penalties on our campuses;
- terminate or limit our campuses' operations or ability to grant degrees;
- restrict or revoke our campuses' accreditation;
- limit, terminate or suspend our campuses' eligibility to participate in Title IV Programs or state financial aid programs;
- require our campuses to repay funds received under Title IV Programs or state financial aid programs;
- require us to post a letter of credit with the ED;
- subject our institutions to heightened cash monitoring by the ED;
- transfer our institutions from the ED's advance system of receiving Title IV Program funds to its reimbursement system, under which an institution must disburse its own funds to students and document the students' eligibility for Title IV Program funds before receiving such funds from the ED; and
- subject us or our campuses to other civil or criminal penalties.

Each of these sanctions could adversely affect our financial condition, results of operations and cash flows and impose significant operating restrictions on us. If any of our campuses lost its state authorization, the campus would be unable to offer postsecondary education and we would be forced to close the campus. If any of our campuses lost its accreditation, it would lose its eligibility to participate in Title IV Programs and, in some states, its ability to operate. If we could not arrange for alternative financing sources for the students attending a campus that lost its eligibility to participate in Title IV Programs, we could be forced to close that campus. Closing multiple campuses could have a material adverse effect on our financial condition, results of operations and cash flows. See "Business – Highly Regulated Industry."

The following are some of the specific risk factors related to our highly regulated industry:

Action by the U.S. Congress to revise the laws governing the federal student financial aid programs or reduce funding for those programs could reduce our student population and increase our costs of operation. Political and budgetary concerns significantly affect Title IV Programs. The U.S. Congress enacted the HEA to be reauthorized on a periodic basis, which most recently occurred in 2008. Some of the changes to the requirements governing the Title IV Programs increased our administrative burden, which has adversely affected our operations. If our efforts to comply with the provisions of the HEA are inconsistent with how the ED interprets the HEA or implements its regulations under the HEA, or with other regulations, we may be found to be in noncompliance with those provisions and the ED could impose monetary penalties, place limitations on our operations and/or condition or terminate our eligibility to participate in Title IV Programs.

In addition, the U.S. Congress can change the laws affecting Title IV Programs in the annual federal appropriations bills and other laws it enacts between the HEA reauthorizations. For example, on April 15, 2011, the Department of Defense and Full-Year Continuing Appropriations Act of 2011 was signed into law (the "FYCAA"). The FYCAA repealed a provision in the HEA, effective July 1, 2011, pursuant to which students could receive a second grant under the Federal Pell Grant (the "Pell") program in a single federal student aid award year. In addition, the Consolidated Appropriations Act of 2012 ("Appropriations Act"), which was signed into law on December 23, 2011, places new restrictions on students' eligibility for grants under the Pell program effective July 1, 2012. As a result, the amount of federal student financial aid available to some current and prospective students will be less, but we do not believe that those changes will negatively affect the decisions of prospective or current students to begin or continue attending our institutions.

At this time, we cannot predict all of the changes that the U.S. Congress will ultimately make. Since a significant percentage of our revenue is indirectly derived from Title IV Programs, any action by the U.S. Congress that significantly reduces Title IV Program funding or the ability of our campuses or students to participate in Title IV Programs could have a material adverse effect on our financial condition, results of operations and cash flows.

If one or more of our campuses lost its eligibility to participate in Title IV Programs, or if the U.S. Congress significantly reduced the amount of available Title IV Program funding, we would try to arrange or provide alternative sources of financial aid for the students at the affected campuses. We cannot assure you that one or more private organizations would be willing to provide loans to students attending those campuses or that the interest rate and other terms of those loans would be as favorable as for Title IV Program loans. In addition, the private organizations could provide a discounted disbursement amount to us on the student loans and/or require us to guarantee all or part of this assistance on unfavorable terms, and we might incur other additional costs. If we provided more direct financial assistance to our students, we would incur additional costs and assume increased credit risks.

Legislative action may also increase our administrative costs and burden and require us to modify our practices in order for our campuses to comply fully with the legislative requirements, which could have a material adverse effect on our financial condition, results of operations and cash flows.

Recent rulemaking by the ED could materially and adversely affect our business. In the fall of 2009, the ED initiated the process of negotiated rulemaking to make changes to certain provisions of the ED regulations governing Title IV Programs. The negotiated rulemaking focused on 14 program integrity issues. On June 18 and July 26, 2010, the ED issued NPRMs which addressed all 14 program integrity issues. On October 29, 2010, the ED issued final rules related to the June 18, 2010 NPRM and to the portion of the July 26, 2010 NPRM that established a notification and approval process for additional programs of study. Those final rules became effective, with minor exceptions, on July 1, 2011. The ED issued final rules on June 13, 2011 with respect to the remaining proposed rules in the July 26, 2010 NPRM, which become effective on July 1, 2012.

The final rules issued on October 29, 2010 and June 13, 2011 could materially and adversely affect our business. Among the most significant of the final rules for our business are:

- the elimination of 12 safe harbors that set forth certain types of activities and payment arrangements (the "Safe Harbors") that an institution may carry out without violating the rules that prohibit payment of any commission, bonus or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any person or entity engaged in any student recruitment or admission activity or in making decisions regarding the awarding of Title IV Program funds (the "Incentive Compensation Prohibition");
- the GE Requirements that each of our programs of study must satisfy;
- notifying the ED of, and possibly obtaining the ED's approval to offer, additional programs of study that lead to gainful employment;

- determining when a program of study is required to measure student progress in clock hours;
- the specifications of what constitutes acceptable authorization by a state for institutions to offer postsecondary programs of study in that state; and
- significantly broadening institutional liability to the ED for "substantial misrepresentation" that would, among other things, subject institutions to sanctions for statements containing inadvertent errors made to non-students, including any member of the public, impose vicarious liability on institutions for the conduct of others, and expose institutions to liability when no actual harm occurs.

Incentive Compensation Prohibition. There are many open questions and interpretive issues with respect to the Incentive Compensation Prohibition. We believe that the changes related to the Incentive Compensation Prohibition, including the elimination of the Safe Harbors:

- increase the uncertainty about what types of compensation are prohibited and which employees are covered by the prohibition; and
- may subject us to qui tam lawsuits for alleged violations of the False Claims Act, 31 U.S.C. § 3729 *et seq*. ("False Claims Act").

These changes adversely affect our ability to compensate our employees based on their performance of their job responsibilities, which could make it more difficult to attract and retain highly-qualified employees. The changes could also impair our ability to sustain and grow our business, which could have a material adverse effect on our results of operations and future growth. See "—***We are subject to sanctions if we pay impermissible commissions, bonuses or other incentive payments to individuals involved in certain recruiting, admission or financial aid activities***."

GE Requirements. There are many open questions and interpretive issues related to the GE Requirements, including questions as to the ability of institutions to obtain and verify the information needed to calculate the applicable metrics. In addition, the continuing eligibility of our programs of study under Title IV Programs are at risk under the GE Requirements due to factors beyond our control. If one or more of our programs of study failed the GE Requirements for:

- one federal fiscal year ("FFY"), we would be required to
  - provide a warning to current and prospective students that explains the GE Requirements, identifies the amount by which the program did not satisfy the GE Requirements and describes the actions that the institution plans to take to improve the program's performance under the GE Requirements (the "Debt Warning"), and
  - refrain from enrolling a prospective student until three days after the Debt Warning is given;
- two of the three most recently completed FFYs, we would be required to provide and publish an enhanced Debt Warning to current and prospective students; or
- three out of four FFYs, the program would become ineligible under the Title IV Programs.

In addition, providing Debt Warnings to current and prospective students could have an adverse impact on the level of interest and enrollment in those programs of study.

We cannot predict with certainty the impact that the GE Requirements will have on our operations. Changes resulting from the GE Requirements could reduce our enrollment and/or increase our cost of doing business, perhaps materially, which could have a material adverse effect on our business, prospects, financial condition, results of operations, cash flows and stock price. See "***If any of our programs of study fail to qualify as programs that lead to gainful employment in a recognized occupation under the ED's regulations, students attending those programs of study will be unable to receive funds from Title IV Programs to help pay their education costs.***" See also **"*One or more of our institutions may lose its eligibility to participate in Title IV Programs, if the percentage of its revenue derived from those programs is too high*.**"

Additional Programs of Study. The final rules related to notifying the ED, and possibly obtaining the ED's approval to offer, additional programs of study require a proprietary institution to notify the ED at least 90 days in advance of starting classes in any new program of study. The notice must include, among other things, information with regard to:

- how the institution determined that a need for the program existed;
- how the program was designed to meet local market needs for programs delivered in residence, or regional or national market needs for programs delivered by distance education over the Internet;
- any wage analysis that the institution performed;
- how the program was reviewed or approved by, or developed in conjunction with, business advisory committees, program integrity boards, public or private oversight or regulatory agencies and businesses that would likely employ graduates;

- the inclusion of the program in the institution's accreditation;
- the date that the institution plans to start classes in the program; and
- how the program would be offered in connection with, or in response to, any applicable initiative by a governmental entity.

The ED will review the notice submitted by the proprietary institution and advise the institution whether the new program of study must be approved by the ED. We do not know how the ED will apply its rules with respect to additional programs. If we are required to obtain approval from the ED for any new programs of study and are unable to obtain the ED's approval in a timely manner, our ability to offer the new program of study would be impaired, which could have a material adverse effect on our expansion plans, financial condition, results of operations and cash flows.

On September 27, 2011, the ED issued a NPRM that would eliminate the notice and approval requirement for certain new programs of study. Under the ED's September 27, 2011 NPRM, unless the ED otherwise notifies a proprietary institution, that institution would only have to apply to the ED for approval of those new programs of study that are:

- the same as, or substantially similar to, programs that were voluntarily discontinued by the institution at the time those programs were failing under the GE Requirements;
- the same as, or substantially similar to, programs that became ineligible under the GE Requirements; or
- substantially similar to programs that are failing under the GE Requirements.

Clock Hours. The final rules related to determining when a program of study is required to measure student progress in clock hours, as opposed to credit hours, are unclear. Students attending credit hour programs of study that are required to be measured in clock hours will likely receive less funds from Title IV Programs to pay their cost of education with respect to those programs of study. Students interested in those programs of study may have to use more expensive private financing to pay their cost of education or may be unable to enroll in those programs of study. Students may determine that they do not qualify for private financing or that the private financing costs make borrowing too expensive, which may cause students to abandon or delay their education. Any or all of these factors could reduce our enrollment, which could have a material adverse effect on our business, financial condition, results of operations, cash flows and stock price. If we were to erroneously determine that a program of study is not required to measure student progress in clock hours, we would likely be liable for repayment of a portion of the Title IV Program funds provided to students in that program of study based on the difference between the amount of funds those students received and the amount they were eligible to receive.

State Authorization. Under the ED's final rules regarding state authorization, institutions that participate in Title IV Programs must be authorized by name to offer postsecondary education by each state where the institution has a physical presence. If an institution offers postsecondary education through distance education to students in a state in which the institution is not physically located, the institution must satisfy any requirements of that state for the institution to offer postsecondary distance education to students in that state. A state must also have a process to review and appropriately act on complaints concerning the institution, including enforcing applicable state laws. The ED will determine whether a state's institutional authorization and complaint process satisfies the ED's regulations. We believe that:

- all of our campuses were physically located in states that satisfied the ED's final rules regarding state authorization; and
- each of our institutions that was offering programs of study through distance education to students in states in which the institution was not physically located satisfied any requirements of those states for the institution to offer postsecondary education to students located in that state.

We cannot predict the extent to which the ED will determine that the institutional authorization or complaint review process of any state satisfies the ED's regulations. If any of our campuses lost its eligibility to participate in Title IV Programs because a state's institutional authorization and complaint process does not satisfy the ED's regulations, and we could not arrange for alternative financing sources for the students attending that campus, we would probably have to close that campus. Closing multiple campuses could have a material adverse effect on our financial condition, results of operations and cash flows.

We cannot predict with certainty the impact that the ED's new regulations will have on our operations. Compliance with these regulations could reduce our enrollment, increase our cost of doing business and have a material adverse effect on our business, financial condition, results of operations and cash flows.

One or more of our institutions may lose its eligibility to participate in Title IV Programs, if its federal student loan cohort default rates are too high. Under the HEA, an institution may lose its eligibility to participate in some or all Title IV Programs, if the rates at which the institution's students default on their federal student loans exceed specified percentages. The ED calculates these rates for each institution on an annual basis, based on the number of

students who have defaulted, not the dollar amount of such defaults. Each institution that participated in the FFEL program and/or FDL program receives a FFEL/FDL cohort default rate for each FFY based on defaulted FFEL and FDL program loans. A FFY is October 1 through September 30. Currently, the ED calculates an institution's annual cohort default rate as the rate at which borrowers scheduled to begin repayment on their loans in one FFY default on those loans by the end of the next FFY ("Two-Year CDR"). Beginning with the calculation of institutions' cohort default rates for FFY 2009, which are expected to be calculated and published by the ED in 2012, the period for which students' defaults will be included in an institution's cohort default rate will be extended by one year, so that the formula will be the rate at which borrowers scheduled to begin repayment on their loans in one FFY default on those loans by the end of the second succeeding FFY ("Three-Year CDR").

Currently, if an institution's Two-Year CDR is:

- 25% or greater for three consecutive FFYs, the institution loses eligibility to participate in the FDL and Pell programs for the remainder of the FFY in which the ED determines that the institution has lost its eligibility and for the two subsequent FFYs; or
- greater than 40% for one FFY, the institution loses eligibility to participate in the FDL programs for the remainder of the FFY in which the ED determines that the institution has lost its eligibility and for the two subsequent FFYs.

None of our institutions had a Two-Year CDR of 25% or greater for any of the three most recent FFYs for which official or preliminary Two-Year CDRs have been issued by the ED.

The following table sets forth the average of our institutions' Two-Year CDRs for the FFYs indicated:

FFY	Two - Year CDR Average
2009 (a)	22.3%
2008	12.2%
2007	11.5%

(a) As of February 15, 2012, the most recent FFY for which the ED has issued preliminary and published official Two-Year CDRs.

We believe that the increase in the official Two-Year CDR average for FFY 2009 compared to the official Two-Year CDR average for FFYs 2008 and 2007 was primarily due to the servicing on the FFEL program loans that were purchased by the ED from the lenders (the "Purchased Loans"). The Purchased Loans were initially serviced by the FFEL program lenders that made those loans, until the Purchased Loans were sold to the ED. Upon receipt of the Purchased Loans, the ED transferred the servicing of those loans to the servicer of the FDL program loans. Shortly thereafter, the ED replaced the servicer of the FDL program loans with four different servicers, and servicing of the Purchased Loans was distributed among the new servicers of the FDL program loans. We believe that the changes in the servicers of the Purchased Loans had a negative impact on the servicing of those loans, which could have resulted in a higher Two-Year CDR average with respect to those loans. Our institutions' Two-Year CDR average for FFY 2009 with respect to the FFEL program loans that were not sold by the FFEL program lenders to the ED (the "Retained Loans") was approximately the same as our institutions' Two-Year CDR average for FFY 2008. We believe that this is primarily due to the absence of any disruption in the servicing of the Retained Loans.

We appealed the ITT Technical Institute institutions' official Two-Year CDRs for FFY 2009 on the basis that the Purchased Loans were improperly serviced. We have not yet received the ED's determination with respect to our appeals, but we believe that the average of our ITT Technical Institute institutions' official Two-Year CDRs for FFY 2009 should be lowered by the ED to between 13.8% and 19.0%, based on the loan servicing information on the Purchased Loans included in the Two-Year CDRs for FFY 2009 that we obtained from the servicers of those loans. Based on this same information, we believe that the Purchased Loans included in the Two-Year CDRs for FFYs 2010, 2011 and, possibly, 2012 may also have been improperly serviced. As a result, we intend to appeal the ITT Technical Institute institutions' official Two-Year CDRs for FFYs 2010, 2011 and, possibly, 2012 on the basis that the Purchased Loans were improperly serviced.

Beginning with the official Three-Year CDRs for FFY 2009 (which we believe will be published by the ED in September 2012), the cohort default rate for three consecutive FFYs that triggers loss of eligibility to participate in FDL and Pell programs increases from 25% to 30%. We believe that our institutions' Three-Year CDRs will likely be higher than our institutions' Two-Year CDRs, because of longer repayment and default histories, among other factors. We believe that the ITT Technical Institutes' Three-Year CDRs will exceed 30% for FFY 2009 and could exceed 30% for FFY 2010, in each case primarily due to the servicing on the Purchased Loans, as discussed above.

Since the same Purchased Loans are included in both the Two- and Three-Year CDRs for FFY 2009, we intend to appeal the ITT Technical Institute institutions' official Three-Year CDRs for FFY 2009 on the basis that those

Purchased Loans were improperly serviced, unless the ED removes the improperly serviced Purchased Loans from the calculation of those rates as a result of our appeal of the ITT Technical Institute institutions' official Two-Year CDRs for FFY 2009 discussed above. Similarly and for the same reason that we intend to appeal the Two-Year CDRs for FFYs 2010, 2011 and, possibly, 2012, as discussed above, we intend to appeal the ITT Technical Institute institutions' Three-Year CDRs for FFYs 2010, 2011 and, possibly, 2012.

The ED may place an institution on provisional certification status, if the institution's official:

- Two-Year CDR is 25% or greater in any of the three most recent FFYs; or
- beginning in 2014, Three-Year CDR is 30% or greater for at least two of the three most recent FFYs.

The ED may more closely review an institution that is provisionally certified, if it applies for approval to open a new location or offer a new program of study that requires approval, or makes some other significant change affecting its eligibility. Provisional certification does not otherwise limit an institution's participation in Title IV Programs. See "Business – Highly Regulated Industry."

An institution can appeal its loss of eligibility due to high Three-Year CDRs. During the pendency of any such appeal, the institution remains eligible to participate in the FDL and Pell programs. If an institution continues its participation in the FDL programs during the pendency of any such appeal and the appeal is unsuccessful, the institution must pay the ED the amount of interest, special allowance, reinsurance and any related payments paid by the ED (or which the ED is obligated to pay) with respect to the FDL program loans made to the institution's students or their parents that would not have been made if the institution had not continued its participation (the "Direct Costs"). If a substantial number of our campuses were subject to losing their eligibility to participate in the FDL and Pell programs because of our institutions' Three-Year CDRs, the potential amount of the Direct Costs for which we would be liable if our appeals were unsuccessful would prevent us from continuing some or all of the affected campuses' participation in the FDL program during the pendency of those appeals, which would have a material adverse effect on our financial condition, results of operations and cash flows.

Current and future economic conditions in the United States could also adversely affect our institutions' Two-Year CDRs and Three-Year CDRs. Increases in interest rates, declines in individuals' incomes, and job losses for our students and graduates or their parents have contributed to, and could continue to contribute to, higher default rates on student loans.

The servicing and collection efforts of student loan servicers help to control our institutions' Two-Year CDRs and Three-Year CDRs. We supplement their efforts by attempting to contact students to advise them of their responsibilities and any deferment, forbearance or alternative repayment plans for which they may qualify.

If any of our institutions lost its eligibility to participate in FDL and Pell programs and we could not arrange for alternative financing sources for the students attending the campuses in that institution, we would probably have to close those campuses, which could have a material adverse effect on our financial condition, results of operations and cash flows.

If any of our programs of study fail to qualify as programs that lead to gainful employment in a recognized occupation under the ED's regulations, students attending those programs of study will be unable to receive funds from Title IV Programs to help pay their education costs. On June 13, 2011, the ED issued final regulations that become effective on July 1, 2012, specifying the GE Requirements. If any of our programs of study fails to satisfy the GE Requirements for three out of four FFYs, that program would be deemed ineligible under Title IV Programs. Students cannot obtain financial aid under Title IV Programs to help pay their education costs associated with attending ineligible programs of study. A program of study will satisfy the GE Requirements, if:

- the program's annual loan repayment rate, as defined and calculated by the ED, is at least 35%;
- the program's graduates' median annual loan payment, as calculated by the ED, is less than or equal to:
  - 30% of discretionary income; or
  - 12% of annual earnings; or
- the data needed to determine whether the program satisfies the GE Requirements are not available to the ED.

The first FFY that a program of study must satisfy the GE Requirements is FFY 2012 (i.e., October 1, 2011 through September 30, 2012). Under the GE Requirements, a program of study offered by an institution is defined based on its credential level (e.g., diploma, associate degree, bachelor degree, master's degree, etc.) and Classification of Institutional Program ("CIP") code. Different programs of study offered by an institution that are at the same credential level and have the same CIP code are combined and treated as a single program under the GE Requirements.

Subject to certain adjustments, limitations and exclusions:

- a program of study's loan repayment rate for a particular FFY is defined and calculated by the ED by dividing:
  - the original outstanding principal balance of FFEL and FDL program loans owed by students for attendance in that program of study on the date those loans first entered repayment during the applicable earlier FFYs (the "OOPB"); into
  - the amount of the OOPB represented by those loans that have never been in default and either:
    - been paid in full by a borrower; or
    - had the balance reduced during the most recently completed FFY to an amount that is less than the outstanding balance at the beginning of that FFY; and
- the annual loan payment for a program of study is calculated by the ED using:
  - the median loan debt of students who completed the program of study during the applicable earlier FFYs;
  - the annual interest rate on FDL program unsubsidized loans; and
  - a 10-year amortization schedule for a program of study that leads to a diploma or associate degree, or a 15-year amortization schedule for a program of study that leads to a bachelor or master's degree.

The median loan debt includes FFEL and FDL program loans, private education loans and institutional financing received by those students for attendance in any program of study offered by the institution. The ED determines whether the annual loan payment for a program of study in a particular FFY is less than or equal to:

- 30% of discretionary income by dividing:
  - the higher of the most currently available mean or median annual earnings of the students who completed the program during the applicable earlier FFYs (the "Applicable Earnings"), less 1.5 times the amount of the most current Poverty Guidelines for a single person in the continental United States; into
  - the annual loan payment; and
- 12% of annual earnings by dividing:
  - the Applicable Earnings; into
  - the annual loan payment.

The Applicable Earnings will be obtained by the ED from the Social Security Administration or another federal agency (collectively, the "SSA"). If a program's graduates' median annual loan payment as calculated by the ED using Applicable Earnings obtained from the SSA is greater than 30% of discretionary income and 12% of annual earnings, however, an institution may demonstrate that the program satisfies the annual loan payment requirements by recalculating the discretionary income and annual earnings percentages using alternative earnings from:

- the Bureau of Labor Statistics ("BLS"), but for only FFYs 2012, 2013 and 2014;
- an institutional survey conducted in accordance with standards of the National Center for Education Statistics; or
- a state-sponsored data system.

An institution may use BLS earnings data to recalculate the discretionary income and annual earnings percentages with respect to a program of study, only if the institution:

- identifies and provides documentation to the ED of the occupation by Standard Occupational Classification ("SOC") code(s) issued by the BLS in which more than 50% of the students who completed the program during the applicable earlier FFYs were employed, and that number of students is more than 30;
- uses the most current BLS earnings data at the 25th percentile for the identified SOC code (or the weighted average of that data for each SOC code, if more than one SOC code was identified); and
- submits to the ED, upon its request, all of the employment and other records that support the SOC code(s) identified with the occupations in which those students were employed.

Depending on how the ED interprets and applies the GE Requirements, if any of our programs fail the annual loan payment requirement using the Applicable Earnings from the SSA, we believe that the alternative BLS earnings may provide us with an opportunity to demonstrate that the program satisfies the annual loan payment requirement for FFYs 2012, 2013 and 2014.

If a program of study fails to satisfy the GE Requirements for:

- one FFY, the institution must provide a Debt Warning and may not enroll a prospective student until three days after the Debt Warning is given to the prospective student;
- two of the three most recently completed FFYs, the institution must:
  - provide the Debt Warning to current and prospective students;

- prominently display the Debt Warning on its website;
- include the Debt Warning in all of its promotional materials; and
- enhance the Debt Warning with additional information, including, without limitation:
  - the risks associated with enrolling or continuing in the program;
  - a timeline and options available to the students, if the institution plans to discontinue the program;
  - a statement that a student who enrolls or continues in the program should expect to have difficulty repaying his or her student loans; and
  - resources that are available to students to research other educational options and compare program costs; and
- three out of four FFYs, the program of study becomes ineligible under the Title IV Programs.

An institution may not seek to reestablish the eligibility of a program of study that becomes ineligible for failure to satisfy the GE Requirements or establish the eligibility of a substantially similar program of study, until the end of the third FFY following the FFY that the program of study became ineligible. A program of study is substantially similar, if it has the same credential level and first four digits of the CIP code as that of the ineligible program. If an institution voluntarily discontinues a program of study that fails to satisfy the GE Requirements for one or two consecutive FFYs, the institution may not seek to reestablish the eligibility of that program of study until the end of the second or third FFY following the FFY in which the institution notifies the ED that the institution is relinquishing Title IV Program eligibility for that program of study, depending on when the institution provides such notice to the ED.

There are many open questions and interpretive issues related to the GE Requirements, including questions as to the ability of institutions to obtain and verify the information needed to calculate the applicable metrics. In addition, the continuing eligibility of our programs of study under Title IV Programs are at risk under the GE Requirements due to factors beyond our control, such as:

- changes in the income level of persons employed in specific occupations or sectors;
- changes in student mix to persons requiring higher amounts of student loans to complete their programs;
- changes in student loan repayment rates, including the usage of deferments and forbearances;
- changes in student loan delinquency rates;
- changes in the nation's economy, which may affect graduate employment, graduate earnings and, therefore, the ability of graduates to repay their student loans;
- personal employment decisions made by our students;
- increases in interest rates; and
- changes in the ED's interpretation of any element of the GE Requirements that result in a more expansive or harsh enforcement than is currently presented.

In addition, providing Debt Warnings to current and prospective students could have an adverse impact on the level of interest and enrollment in those programs of study.

We cannot predict with certainty the impact that the GE Requirements will have on our operations. The GE Requirements have resulted in, and will likely continue to result in, significant changes to the programs of study that we offer, in order to comply with the requirements or to avoid the uncertainty associated with such compliance, such as offering programs at lower costs or in fields with higher earnings potential. The GE Requirements have and will continue to put downward pressure on tuition prices, so that students do not incur debt that exceeds the levels required for a program to remain eligible under Title IV Programs. This could, in turn, increase the percentage of our revenue that is derived from Title IV Programs and, therefore, adversely impact our compliance with the 90/10 Rule. We have also begun to limit enrollment in certain programs of study and substantially increase our efforts to promote student loan repayment. Any or all of these factors could reduce our enrollment and/or increase our cost of doing business, perhaps materially, which could have a material adverse effect on our business, prospects, financial condition, results of operations, cash flows and stock price.

We may be required to post a letter of credit or accept other limitations in order to continue our campuses' participation in Title IV Programs, state authorization and accreditation, if we or our campuses do not meet the financial standards of the ED, SAs or ACs. The ED, SAs and ACs prescribe specific financial standards that an institution must satisfy to participate in Title IV Programs, operate in a state and be accredited. The ED evaluates institutions for compliance with its standards each year, based on the institution's annual audited financial statements, as well as following any change of control of the institution and when the institution is reviewed for recertification by the ED. The most significant financial responsibility measurement is the institution's composite score, which is calculated by the ED based on three ratios:

- the equity ratio, which measures the institution's capital resources, ability to borrow and financial viability;

- the primary reserve ratio, which measures the institution's ability to support current operations from expendable resources; and
- the net income ratio, which measures the institution's ability to operate at a profit.

The ED assigns a strength factor to the results of each of these ratios on a scale from negative 1.0 to positive 3.0, with negative 1.0 reflecting financial weakness and positive 3.0 reflecting financial strength. The ED then assigns a weighting percentage to each ratio and adds the weighted scores for the three ratios together to produce a composite score for the institution. The composite score must be at least 1.5 for the institution to be deemed financially responsible by the ED without the need for further oversight. Our institutions' composite score, based on our fiscal year consolidated financial statements at the parent company level, was 2.1 in 2011 and 1.8 in 2010. Our composite score in 2011 was higher than in 2010 primarily due to a higher equity ratio. In 2011, we repurchased approximately 4.0 million shares of our common stock for approximately $282.7 million compared to approximately 5.7 million shares of our common stock for approximately $434.7 million in 2010. Share repurchases have the accounting effect of reducing our shareholders' equity, which results in a lower equity ratio. Therefore, the lower amount of share repurchases in 2011 contributed to the higher equity ratio in that year compared to 2010.

In evaluating an institution's compliance with the financial responsibility standards, the ED may examine the financial statements of the individual institution, the institution's parent company, or any party related to the institution. Historically, the ED has evaluated the financial condition of our campuses on a consolidated basis based on our financial statements at the parent company level. If the ED determines that an institution does not satisfy the ED's financial responsibility standards, the institution may establish its financial responsibility on one of several alternative bases, including posting a letter of credit in an amount equal to a specified percentage of the total Title IV Program funds received by the institution during the institution's most recently completed fiscal year and, in some cases, agreeing to receive Title IV Program funds under an arrangement other than the ED's standard advance funding arrangement while being provisionally certified and to be subject to certain additional reporting requirements. The requirement to post a letter of credit or other sanctions by the ED could increase our cost of regulatory compliance and adversely affect our results of operations and cash flows.

One or more of our institutions may have to post a letter of credit or be subject to other sanctions if it does not correctly calculate and return within the required time frame Title IV Program funds for, or refund monies paid by or on behalf of, students who withdraw before completing their program of study. The HEA and its implementing regulations impose limits on the amount of Title IV Program funds withdrawing students can use to pay their education costs (the "Return Policy"). The Return Policy permits a student to use only a pro rata portion of the Title IV Program funds that the student would otherwise be eligible to use, if the student withdraws during the first 60% of any period of enrollment. For the vast majority of our campuses, a period of enrollment is generally an academic quarter. The institution must calculate and return to the ED any Title IV Program funds that the institution receives on behalf of a withdrawing student in excess of the amount the student can use for such period of enrollment. The institution must return those unearned funds in a timely manner which is generally within 45 days of the date the institution determined that the student had withdrawn. If the unearned funds are not properly calculated and timely returned, we may have to post a letter of credit in favor of the ED or be otherwise sanctioned by the ED. An institution is required to post a letter of credit with the ED in an amount equal to 25% of the total dollar amount of unearned Title IV Program funds that the institution was required to return with respect to withdrawn students during its most recently completed fiscal year, if the institution is found in an audit or program review to have untimely returned unearned Title IV Program funds with respect to 5% or more of the students in the audit or program review sample of withdrawn students, in either of its two most recently completed fiscal years. As of December 31, 2011, no audit or review had found that any of our institutions violated the ED's standard on the timely return of unearned Title IV Program funds. The requirement to post a letter of credit or other sanctions by the ED could increase our cost of regulatory compliance and adversely affect our results of operations.

The standards of most of the SAs and the ACs limit a student's obligation to an institution for tuition and fees, if a student withdraws from the institution (the "Refund Policies"). The specific standards vary among the SAs. Depending on when during an academic term a student withdraws and the applicable Refund Policies, in many instances the student remains obligated to the campus for some or all of the student's education costs that were paid by the Title IV Program funds returned under the Return Policy. In these instances, many withdrawing students are unable to pay all of their education costs, unless the students have access to other sources of financial aid. Qualified students may be able to obtain private education loans that can help replace any Title IV Program funds that are returned if any of those students withdraw, but it is unlikely that many of our affected students would be able to qualify for these types of loans. If these types of loans were unavailable, we could be unable to collect a significant portion of many withdrawing students' education costs that would have been paid by Title IV Program funds that were returned, which, in the aggregate, could have a material adverse effect on our results of operations and cash flows.

One or more of our institutions may lose its eligibility to participate in Title IV Programs, if the percentage of its revenue derived from those programs is too high. Under a provision of the HEA commonly referred to as the

90/10 Rule, a proprietary institution may be sanctioned if, on a cash accounting basis, the institution derives more than 90% of its applicable revenue in a fiscal year from Title IV Programs. If an institution exceeds the 90% threshold for any single fiscal year, the ED would place that institution on provisional certification status for the institution's following two fiscal years, unless the institution's participation in Title IV Programs ends sooner. In addition, if an institution exceeds the 90% threshold for two consecutive fiscal years, it would be ineligible to participate in Title IV Programs as of the first day of the following fiscal year and would be unable to apply to regain its eligibility until the end of the second subsequent fiscal year. Furthermore, if one of our institutions exceeded the 90% threshold for two consecutive fiscal years and became ineligible to participate in Title IV Programs but continued to disburse Title IV Program funds, the ED would require the institution to repay, with limited exceptions, all Title IV Program funds disbursed by the institution after the effective date of the loss of eligibility.

For our 2011 fiscal year, none of our institutions derived more than approximately 69% of its applicable revenue on a cash accounting basis from Title IV Programs under the 90/10 Rule calculation. Any changes in federal law that increase Title IV Program grant or loan limits may result in an increase in the percentage of revenue that we indirectly derive from Title IV Programs, which could make it more difficult for us to satisfy the 90/10 Rule. We believe that the percentage of our institutions' applicable revenue on a cash accounting basis that is derived from Title IV Programs under the 90/10 Rule calculation will increase slightly in our 2012 fiscal year, due primarily to the inclusion of certain additional federal student loan amounts in our institutions' revenue derived from Title IV Programs under the 90/10 Rule calculation that began in July 2011.

We regularly monitor compliance with the 90/10 Rule to minimize the risk that any of our institutions would derive more than the maximum allowable percentage of its applicable revenue from Title IV Programs for any fiscal year. If an institution appeared likely to approach the maximum percentage threshold, we would consider making changes in student financing to comply with the 90/10 Rule, but we cannot assure you that we would be able to do this in a timely manner or at all. If any of our institutions lost its eligibility to participate in Title IV Programs and we could not arrange for alternative financing sources for the students attending the campuses in that institution, we would probably have to close those campuses, which could have a material adverse effect on our financial condition, results of operations and cash flows.

Failure by one or more of our institutions to satisfy the ED's administrative capability requirements could result in financial penalties, limitations on the institution's participation in Title IV Programs, or loss of the institution's eligibility to participate in Title IV Programs. To participate in Title IV Programs, an institution must satisfy criteria of administrative capability prescribed by the ED. These criteria include requirements that the institution:

- demonstrate a reasonable relationship between the length of its programs and the entry-level job requirements of the relevant fields of employment;
- comply with all of the applicable Title IV Program regulations prescribed by the ED;
- have capable and sufficient personnel to administer the institution's participation in Title IV Programs;
- define and measure the satisfactory academic progress of its students within parameters specified by the ED;
- provide adequate financial aid counseling to its students who receive Title IV Program funds; and
- timely submit all required reports and financial statements to the ED.

If the ED determines that an institution is not capable of adequately administering its participation in any of the Title IV Programs, the ED could:

- impose monetary fines or penalties on the institution;
- require the institution to repay funds received under Title IV Programs;
- transfer the institution from the advance method of payment of Title IV Program funds to heightened cash monitoring status or the reimbursement system of payment; or
- limit or terminate the institution's eligibility to participate in Title IV Programs.

Each of these sanctions could adversely affect our financial condition, results of operations and cash flows and impose significant operating restrictions on us. In addition, an institution is currently deemed by the ED to lack administrative capability if its Two-Year CDR equals or exceeds 25% for any of the three most recent federal fiscal years for which such rates have been published. On and after 2014, an institution is deemed by the ED to lack administrative capability if its Three-Year CDR equals or exceeds 30% for at least two of the three most recent federal fiscal years for which such rates have been published. If an institution's administrative capability is impaired solely because its Two-Year CDR or Three-Year CDRs equal or exceed the applicable percentage, the institution can continue to participate in Title IV Programs, but the ED may place the institution on provisional certification.

We are subject to sanctions if we pay impermissible commissions, bonuses or other incentive payments to individuals involved in certain recruiting, admission or financial aid activities. The Incentive Compensation Prohibition prohibits an institution participating in Title IV Programs from providing any commission, bonus or other

incentive payment based directly or indirectly on success in securing enrollments or financial aid to any person or entity engaged in any student recruitment or admission activity or in making decisions regarding the awarding of Title IV Program funds. Prior to July 1, 2011, the ED's regulations regarding the Incentive Compensation Prohibition set forth 12 Safe Harbors. One of the Safe Harbors permitted the payment of fixed compensation, such as a fixed annual salary or hourly wage, so long as the fixed compensation is not adjusted up or down more than twice during any 12-month period, and any adjustment to the fixed compensation is not based solely on the number of students recruited, admitted, enrolled or awarded financial aid. We believe that we compensated the applicable employees in accordance with this Safe Harbor and other Safe Harbors prior to July 1, 2011, but the law and regulations governing this requirement do not establish clear criteria for compliance in all circumstances, and the ED would not entertain a request by an institution for the ED to review and assess its individual compensation plan. In late 2010, the ED modified its regulations concerning the Incentive Compensation Prohibition effective July 1, 2011. All 12 Safe Harbors were eliminated as a result of those modifications. We believe that the changes related to the Incentive Compensation Prohibition, including the elimination of the Safe Harbors:

- increase the uncertainty related to our compliance with the Incentive Compensation Prohibition on and after July 1, 2011;
- increase the uncertainty about what types of compensation are prohibited and which activities and employees are covered by the Incentive Compensation Prohibition;
- required us to change our compensation practices for most of our employees (including our executives);
- may subject us to qui tam lawsuits for alleged violations of the False Claims Act;
- adversely affect our ability to compensate our employees based on their performance of their job responsibilities, which could make it more difficult to attract and retain highly-qualified employees; and
- could impair our ability to sustain and grow our business.

In March 2011, the ED published guidance on the Incentive Compensation Prohibition (the "Guidance"). We believe that the Guidance further increases the uncertainty about the types of compensation that are prohibited and which activities and employees are covered by the Incentive Compensation Prohibition. We cannot be sure that the compensation that we have paid our employees since July 1, 2011 will not be determined to violate the Incentive Compensation Prohibition. If the ED determines that our compensation practices violate the Incentive Compensation Prohibition, the ED could subject us to substantial monetary fines or penalties or other sanctions. We could also be subjected to qui tam lawsuits for alleged violations of the False Claims Act related to the Incentive Compensation Prohibition. Those sanctions and lawsuits could have a material adverse effect on our financial condition, results of operations, cash flows and future growth. We cannot predict with certainty the impact that the changes relating to the Incentive Compensation Prohibition will have on our operations. Compliance with those regulations could also reduce our enrollment and increase our cost of doing business.

We cannot operate new campuses, add learning sites or offer new programs, if they are not timely authorized by our regulators, and we may have to repay Title IV Program funds disbursed to students enrolled at any of those locations or in any of those programs, if we do not obtain prior authorization. Our expansion plans assume that we will be able to continue to obtain the necessary authorization from the ED, ACs and SAs to establish new campuses, add learning sites to our existing campuses and expand or revise the program offerings at our existing campuses in a timely manner. If we are unable to obtain the authorizations from the ED, ACs or SAs for any new campuses or learning sites, or any new or revised program offerings, where such authorizations are required, or to obtain such authorizations in a timely manner, our ability to operate the new campuses, add the learning sites or offer new or revised programs as planned would be impaired, which could have a material adverse effect on our expansion plans.

The process of obtaining any required SA and ACs authorizations can also delay our operating new campuses, adding learning sites or offering new programs. In certain circumstances, the state laws and regulations in effect in the states where we are located or anticipate establishing a new location or the ACs standards may limit our ability to establish new campuses and learning sites and expand the programs offered at a campus, which could have a material adverse effect on our expansion plans.

In addition, an institution that is eligible to participate in Title IV Programs may add a new location or program without the ED's approval only if certain requirements are met. Otherwise, the institution must obtain the ED's approval before it may disburse Title IV Program funds to students in the new location or program. If we were to erroneously determine that a new location or program is eligible for Title IV Program funding, we would likely be liable for repayment of the Title IV Program funds provided to students in that location or program. See "Business – Highly Regulated Industry."

Government and regulatory agencies and third parties may bring claims or actions against us based on alleged violations of the extensive regulatory requirements applicable to our campuses, which could require us to pay monetary damages, receive other sanctions and expend significant resources to defend those claims or actions. Due to the highly regulated nature of the postsecondary education industry, we are subject to claims of non-compliance with regulatory standards and other actions brought by our regulatory agencies, students, shareholders and other parties. If the results of any of those claims are unfavorable to us, we may be required to pay money damages or be subject to fines, penalties, injunctions, operational limitations, loss of eligibility to participate in federal or state financial aid programs, debarments, additional oversight and reporting, or other civil and criminal sanctions. Those sanctions could have a material adverse effect on our financial condition, results of operations and cash flows. Even if we satisfactorily resolve the issues raised by those types of claims, we may have to divert significant financial and management resources from our ongoing business operations to address and defend those claims, which could have a material adverse effect on our financial condition, results of operations and cash flows. Adverse publicity regarding any of those claims could also negatively affect our business and the market price of our common stock. See "Business – Highly Regulated Industry."

The U.S. Senate Health, Education, Labor and Pensions ("HELP") Committee is examining the proprietary postsecondary education industry, and the results of that examination could result in legislation or further rulemaking by the ED that restricts Title IV Program participation by proprietary colleges in a manner that materially and adversely affects our business. In the past two years, the HELP Committee has held a series of hearings and issued a number of reports that were critical of various aspects of the proprietary higher education industry. In August 2010, the HELP Committee requested information from the 30 largest proprietary providers of postsecondary education in the U.S., including us. The Chairman of the HELP Committee has indicated that he will likely introduce legislation as a result of the information obtained through the HELP Committee's examination of the proprietary higher education industry. That legislation, if passed into law, could result in additional restrictions on our operations.

We cannot predict the extent to which, or whether, the HELP Committee's hearings, review of information and/or reports will result in laws, regulations or administrative actions affecting our participation in Title IV Programs or other aspects of our business. To the extent that any laws or regulations are adopted, or other administrative actions are taken, that limit our participation in Title IV Programs, our enrollments, results of operations and financial condition could be materially and adversely affected.

Investigations, claims and actions against companies in our industry could adversely affect our business and stock price. The operations of a number of companies in the postsecondary education industry have been subject to intense regulatory scrutiny. In some cases, allegations of wrongdoing have resulted in reviews or investigations by the U.S. Department of Justice, SEC, ED, Government Accountability Office, Department of Veterans Affairs, Department of Defense, state education and professional licensing authorities, states' attorney general offices or other state agencies. These investigations and actions have alleged, among other things, deceptive trade practices and noncompliance with regulations. These allegations have attracted adverse media coverage that may negatively affect public perceptions of for-profit educational institutions, including the ITT Technical Institutes and Daniel Webster College. Adverse media coverage regarding other companies in the for-profit sector or regarding us directly could damage our reputation, could result in lower enrollments, revenue and profit, and could have a negative impact on our stock price. These allegations, reviews, investigations and enforcement actions and the accompanying adverse publicity could also result in increased scrutiny of, and have a negative impact on, us and our industry.

Changes in the amount or availability of veterans' educational benefits or Department of Defense tuition assistance programs could materially and adversely affect our business. Certain members of the U.S. Congress have recently increased their focus on Department of Defense tuition assistance and veterans educational benefits that are used for programs of study offered at proprietary education institutions, particularly distance education programs of study. In addition, certain members of Congress have stated that the 90/10 Rule should be revised to count Department of Defense tuition assistance and veterans' educational benefits toward the 90% limit. To the extent that any laws or regulations are adopted that limit or condition the amount of educational benefits that veterans can use toward their costs of education at proprietary education institutions or in distance education programs, or that limit or condition the participation of proprietary education institutions or distance education programs in military tuition assistance programs or in Title IV Programs with respect to military tuition assistance programs, our enrollments, results of operations and financial condition could be materially and adversely affected.

If the graduates of some of our programs are unable to obtain licensure in their chosen professional fields of study, the enrollment in and the revenue derived from those programs could decrease and claims could be made against us that could be costly to defend. Future graduates of certain of our programs of study offered through our Breckinridge School of Nursing and Health Sciences will seek professional licensure in their chosen field following graduation. Their success in obtaining licensure depends on several factors, including:

- the merits of the individual student; and

- whether the campus and the program were authorized by the appropriate SAs and/or approved by an accrediting commission and/or professional association.

Certain SAs have refused to license students who graduate from programs that do not meet specific types of accreditation, residency or other state requirements. In the event that one or more SAs refuses to recognize our graduates for professional licensure in the future based on factors relating to our campuses or their programs, student enrollment in those programs would be negatively impacted which could have an adverse effect on our results of operations. In addition, we could be exposed to claims that would force us to incur legal and other expenses that could have a material adverse effect on our results of operations.

Risks Related to Our Business

If we fail to effectively identify, establish and operate new campuses and learning sites, our growth may be slowed. As part of our business strategy, we anticipate operating new campuses and adding learning sites to existing campuses at locations throughout the United States. Establishing new campuses and learning sites poses challenges and requires us to make investments in management and capital expenditures, incur marketing and advertising expenses and devote other resources that are different, and in some cases greater, than those required with respect to the operation of existing campuses. To operate a new campus or add a learning site, we would be required to obtain the appropriate authorizations from the applicable SAs and ACs, which may be conditioned or delayed in a manner that could significantly affect our growth plans. In addition, to be eligible to participate in Title IV Programs, a new campus or learning site must be certified by the ED, either before or after it starts disbursing Title IV Program funds to its students. We cannot be sure that we will be able to identify suitable expansion opportunities to help maintain or accelerate our current geographic expansion or that we will be able to successfully integrate or profitably operate any new campuses or learning sites. Any failure by us to effectively identify, establish and manage the operations of newly established campuses or learning sites could slow our growth, make any newly established campuses or learning sites more costly to operate than we had planned and have a material adverse effect on our expansion plans and results of operations. See "Business – Business Strategy – *Geographically Expand the Delivery of our Educational Offerings.*"

Our success depends, in part, on our ability to effectively identify, develop, obtain approval to offer and teach new programs at different levels in a cost-effective and timely manner. Part of our business strategy also includes increasing the number, levels, lengths and disciplines of programs offered at our campuses. Developing and offering new programs pose challenges and require us to make investments in research and development, management and capital expenditures, to incur marketing and advertising expenses and to devote other resources that are in addition to, and in some cases greater than, those associated with our current program offerings. In order to offer new programs at different levels at our campuses, we may be required to obtain the appropriate authorizations from the ED, SAs, ACs and, in certain circumstances, specialized programmatic accrediting commissions, which may be conditioned or delayed in a manner that could affect the programs offered at our campuses. We cannot be sure that we will be able to identify new programs to help maintain or accelerate our current geographic expansion, that we will be able to obtain the requisite authorizations to offer new programs at different levels at our campuses or that students will enroll in any new programs that we offer at our campuses. Any failure by us to effectively identify, develop, obtain authorization to offer and teach new programs at our campuses could have a material adverse effect on our expansion plans and results of operations. See "Business – Business Strategy – *Enhance Results at Each Institution*."

Our success depends, in part, on our ability to keep pace with changing market needs and technology. Increasingly, prospective employers of our graduates demand that their entry-level employees possess appropriate technical skills and also appropriate soft skills, such as communication, critical thinking and teamwork skills. The skills that employees need may evolve rapidly in a changing economic and technological environment. Accordingly, it is important for our programs to evolve in response to those economic and technological changes. The expansion of our existing programs and the development of new programs may not be accepted by prospective students or the employers of our graduates. Even if we are able to develop acceptable new programs, we may not be able to begin offering those new programs as quickly as required by the employers we serve or as quickly as our competitors offer similar programs. If we are unable to adequately respond to changes in market requirements due to regulatory or financial constraints, technological changes or other factors, our ability to attract and retain students could be impaired and the rates at which our graduates obtain jobs involving their fields of study could suffer.

Our financial performance depends, in part, on our ability to continue to develop awareness and acceptance of our programs among working adults and recent high school graduates. The awareness of our programs among working adults and recent high school graduates is important to the success of our campuses. If we were unable to successfully market or advertise our programs, our ability to attract and enroll prospective students in our programs would be adversely affected and, consequently, our ability to increase revenue or maintain profitability would be impaired. The following are some of the factors that could prevent us from successfully marketing or advertising our programs:

- student dissatisfaction with our programs and services;
- employer dissatisfaction with our programs and services;
- high costs of certain types of advertising media;
- adverse publicity regarding us, our competitors or proprietary education generally;
- our failure to maintain or expand our brands or other factors related to our marketing or advertising practices; and
- diminished access to students during their attendance in high schools.

If we are unable to timely identify lenders to make private education loans to our students, our students' ability to finance their education could be adversely affected, our receivables could increase and our student population could decrease. In 2011, we derived approximately 7% of our cash receipts from unaffiliated, private education loan programs that were made available to eligible students at our campuses to help fund a portion of the students' cost of education. The vast majority of these private education loans were made under two programs, both of which expired in 2011. We are pursuing arrangements with unaffiliated lenders for them to provide private education loans to our students and their parents who qualify. We cannot assure you, however, that we will be able to timely identify alternative lenders on terms as favorable to us as the previous programs were, or at all. Adverse market conditions for consumer loans and student loans, including lenders' difficulties in reselling or syndicating student loan portfolios, have resulted and could continue to result in providers of private education loans reducing the availability of, or increasing the costs associated with, providing those loans to students. The loan underwriting standards can vary significantly among lenders, which could adversely affect the ability of some of our students to obtain private education loans. In particular, private education loans to students with low credit scores are difficult to obtain.

If we are unable to timely identify lenders to make private education loans to our students and their parents, our students' ability to finance their education could be adversely affected and our receivables could increase, which could have a material adverse effect on our financial condition, results of operations and cash flows. Further, even if private education loans are made available to our students, prospective and current students may determine that the borrowing costs associated with private education loans are too expensive and cause them to abandon or delay their education. If any of these scenarios were to occur, our students' ability to finance their education could be adversely affected and our student population could decrease, which could have a material adverse effect on our results of operations and cash flows.

If the charge-off rate on private education loans under programs where we have a guarantee obligation is higher than we anticipate, or if the charge offs occur earlier in the life of those loans, our guarantee obligations related to those loans may have a material adverse effect on us. We have entered into risk sharing and guarantee agreements (collectively, "RSAs") with unaffiliated entities related to private education loans provided to our students to help pay the students' cost of education that student financial aid from federal, state and other sources does not cover. Under two of the RSAs, we guarantee the repayment of any private education loans that are charged off above a certain percentage of the private education loans made under that RSA or related program, based on dollar volume. Under the third RSA, we guarantee the payment of principal, interest and certain call premiums on $300 million of principal of senior debt obligations of, and administrative fees and expenses of, an unaffiliated trust that holds the private education loans made under the PEAKS Private Student Loan Program ("PEAKS Program"). Our obligations under each of the RSAs will remain in effect until all private education loans made under that RSA, related program or the senior debt obligation, as applicable, are paid in full or charged off. The maximum potential future payments that we could be required to make pursuant to our guarantee obligations under the RSAs are affected by various factors. See Notes 11 and 14 of the Notes to Consolidated Financial Statements.

We are not able to estimate the maximum potential future payments that we could be required to make under the RSAs. Based on the repayment history of our students with respect to private education loans, we do not believe that our guarantee obligations under the RSAs will have a material adverse effect on us. If, however, the charge-off rate on the loans that are subject to the RSAs is higher than we anticipate, or if the charge offs occur earlier in the life of those loans, we could be required to pay material amounts under our guarantee obligations, which could have a material adverse effect on our financial condition, results of operations and cash flows.

At the end of each reporting period, we assess whether we should recognize a contingent liability related to the various claims and contingencies that we are subject to, including those related to litigation, business transactions, guarantee arrangements and employee-related matters, among others. As of December 31, 2011, our recorded liability for these claims and contingencies was approximately $36.0 million and is primarily included in Other liabilities on our Consolidated Balance Sheet. The substantial majority of this amount pertains to our guarantee arrangements.

In addition, due to the expiration of the previous private education loan programs that were available to our students, we are attempting to identify unaffiliated lenders to make private education loans to our students going forward. Those lenders could provide a discounted disbursement amount to us on the student loans and/or require us to guarantee all or part of this assistance on terms that are less favorable to us than the disbursement arrangements and guarantee obligations under the previous private education loan programs.

If we experience losses in excess of the amounts that we have reserved with respect to the significant amount of internal student financing that we have provided to our students, it could have a material adverse effect on our financial condition, results of operations and cash flows. We offer a variety of payment plans to help students pay the portion of their cost of education that is not covered by financial aid or other funds. These balances are unsecured and not typically guaranteed. These balances have increased as a result of the number of our students who do not qualify for private education loans from third parties due to their prior credit history and the limited funding available under private education loan programs for which those students could qualify. These balances could become more significant in the future, particularly if we are unable to timely identify unaffiliated lenders to make private education loans to our students. Increases in internal student financing adversely affect our cash flows and expose us to greater credit risk. Although we have reserved for estimated losses related to unpaid student balances, losses in excess of the amount we have reserved for bad debts could have a material adverse effect on our financial condition and results of operations.

High interest rates and tightening of the credit markets could adversely affect our ability to attract and retain students and could increase our risk exposure. Since much of the financing our students receive is tied to floating interest rates, higher interest rates cause a corresponding increase in the cost to our existing and prospective students of financing their education, which could result in a reduction in the number of students attending our campuses and, consequently, in our revenue. Higher interest rates could also contribute to higher default rates with respect to our students' repayment of Title IV Program and private education loans. High default rates may, in turn, adversely impact our eligibility to participate in Title IV Programs, trigger our guarantee obligations with respect to private education loan programs and/or negatively affect the willingness of private lenders to make private education loan programs available to our students, which could result in a reduction in the number of students attending our campuses and could have a material adverse effect on our financial condition, results of operations and cash flows.

In addition, tighter credit markets have caused lenders to alter the terms of private education loans that they offer in ways that are not beneficial to our student and parent borrowers, such as:

- changing the terms and pricing of their private education loans in ways that are less favorable to borrowers;
- reducing or eliminating borrower benefits on private education loans; and
- becoming more selective in originating private education loans, which could adversely impact the ability of borrowers with little or poor credit history to borrow the necessary funds to pay their cost of education.

As a result of those adverse effects on our students' ability to finance their cost of education, our receivables could increase and/or our student population could decrease, which could have a material adverse effect on our financial condition, results of operations and cash flows. Further, a tighter credit market could cause other lenders to seek contractual terms from us related to private education loans that increase our exposure to credit risk.

Our loss of key personnel could harm our business. Our success to date has depended, and will continue to depend, largely on the skills, efforts and motivation of our executive officers. Our success also depends in large part on our ability to attract and retain highly qualified faculty, school administrators and corporate management. We face competition in the attraction and retention of personnel who possess the skill sets that we seek. In addition, key personnel may leave us and subsequently compete against us. Furthermore, we do not currently carry "key man" life insurance. The loss of the services of any of our key personnel, or our failure to attract and retain other qualified and experienced personnel on acceptable terms, could impair our ability to successfully manage our business.

In order to support revenue growth, we need to hire, retain, develop and train employees who are responsible for student recruiting, financial aid, registration, teaching and career services. Our ability to develop a strong team of employees with these responsibilities may be affected by a number of factors, including:

- our ability to timely and effectively train and motivate our employees in order for them to become productive;
- restrictions imposed by regulatory bodies on the method of compensating employees, such as the Incentive Compensation Prohibition;
- our ability to attract enough prospective students to our program offerings; and
- our ability to effectively manage a multi-institutional and multi-location educational organization.

If we are unable to hire, retain, develop and train employees who are responsible for student recruiting, financial aid, registration, teaching and career services, our operations would be adversely affected.

Competition could decrease our market share or force us to increase spending. The postsecondary education market in the United States is highly fragmented and competitive, with no single private or public institution enjoying a significant market share. Our campuses compete for students with degree- and nondegree-granting institutions, which include public and private nonprofit colleges and proprietary institutions, as well as with alternatives to higher

education, such as military service or immediate employment. Certain public and private colleges offer programs similar to those offered by our campuses at a lower tuition cost due in part to government subsidies, foundation grants, tax deductible contributions or other financial resources not available to proprietary institutions. Other proprietary institutions offer programs that compete with those of our campuses. Certain of our competitors in both the public and private sectors have greater financial and other resources than we do. All of these factors could affect the success of our marketing efforts and enable our competitors to recruit prospective students more effectively.

We may be required to increase spending in response to competition in order to retain or attract students or pursue new market opportunities. As a result, our financial condition, results of operations and cash flows may be negatively affected. We cannot be sure that we will be able to compete successfully against current or future competitors or that competitive pressures faced by us will not adversely affect our business, financial condition, results of operations or cash flows.

Our quarterly results of operations are likely to fluctuate based on our seasonal student enrollment patterns. In reviewing our results of operations, you should not focus on quarter-to-quarter comparisons. Our results in any quarter may not indicate the results we may achieve in any subsequent quarter or for the full year. Our quarterly results of operations have tended to fluctuate as a result of seasonal variations in our business, principally due to changes in our total student population. Our student population varies as a result of new student enrollments, graduations and student attrition. Historically, our revenue in our third and fourth fiscal quarters has generally benefited from increased student matriculations. The number of new students entering our campuses is typically higher in September. Our campuses' academic schedule generally does not affect our incurrence of most of our costs, however, and our costs do not fluctuate significantly on a quarterly basis. We believe that quarterly fluctuations in results of operations should continue as a result of seasonal enrollment patterns. These patterns may change, however, as a result of increased enrollment of adult students. See "Management's Discussion and Analysis of Financial Condition and Results of Operations – Variations in Quarterly Results of Operations."

We may be unable to successfully complete or integrate future acquisitions. We may consider selective acquisitions of other schools or education-related businesses in the future. We may not be able to complete any acquisitions on favorable terms or, even if we do, we may not be able to successfully integrate the acquired businesses into our business. Integration challenges include, among others:

- regulatory approvals;
- significant capital expenditures;
- assumption of known and unknown liabilities;
- our ability to control costs; and
- our ability to integrate new personnel.

The successful integration of future acquisitions may also require substantial attention from our senior management and the senior management of the acquired business, which could decrease the time that they devote to the day-to-day management of our business. If we do not successfully address risks and challenges associated with acquisitions, including integration, future acquisitions could harm, rather than enhance, our operating performance.

In addition, if we consummate an acquisition, our capitalization and results of operations may change significantly. A future acquisition could result in:

- the incurrence of debt and contingent liabilities;
- an increase in interest expense, amortization expenses, goodwill and other intangible assets;
- charges relating to integration costs; and
- an increase in the number of shares outstanding.

These results could have a material adverse effect on our results of operations or financial condition or result in dilution to current stockholders.

Terrorist attacks and other acts of violence or war could have an adverse effect on our operations. Terrorist attacks and other acts of violence or war could disrupt our operations. Attacks or armed conflicts that directly impact our physical facilities or ability to recruit and retain students and employees could adversely affect our ability to deliver our programs of study to our students and, thereby, impair our ability to achieve our financial and operational goals. Furthermore, violent acts and threats of future attacks could adversely affect the U.S. and world economies. Finally, future terrorist acts could cause the United States to enter into a wider armed conflict that could further impact our operations and result in prospective students, as well as our current students and employees, entering military service. These factors could cause significant declines in the number of students who attend our campuses and have a material adverse effect on our results of operations.

Natural disasters and other acts of God could have an adverse effect on our operations. Hurricanes, earthquakes, floods, tornados and other natural disasters and acts of God could disrupt our operations. Natural disasters and other acts of God that directly impact our physical facilities or ability to recruit and retain students and

employees could adversely affect our ability to deliver our programs of study to our students and, thereby, impair our ability to achieve our financial and operational goals. Furthermore, natural disasters could adversely affect the economy and demographics of the affected region, which could cause significant declines in the number of students who attend our campuses in that region and have a material adverse effect on our results of operations.

Anti-takeover provisions in our charter documents and under Delaware law, as well as required approvals by the ED, the ACs and most of the SAs, could make an acquisition of us more difficult. Certain provisions of Delaware law, our Restated Certificate of Incorporation and our By-Laws could have the effect of making it more difficult for a third party to acquire, or discouraging a third party from attempting to acquire, control of us. Those provisions could:

- limit the price that certain investors might be willing to pay in the future for shares of our common stock;
- discourage or prevent certain types of transactions involving an actual or threatened change in control of us (including unsolicited takeover attempts), even though such a transaction may offer our stockholders the opportunity to sell their stock at a price above the prevailing market price;
- make it more difficult for stockholders to take certain corporate actions; and
- have the effect of delaying or preventing a change in control of us.

Certain of those provisions authorize us to:

- issue "blank check" preferred stock;
- divide our Board of Directors into three classes expiring in rotation;
- require advance notice for stockholder proposals and nominations;
- prohibit stockholders from calling a special meeting; and
- prohibit stockholder action by written consent.

In addition, the ED, the ACs and most of the SAs have requirements pertaining to the change in ownership and/or control (collectively "change in control") of institutions, but these requirements do not uniformly define what constitutes a change in control and are subject to varying interpretations as to whether a particular transaction constitutes a change in control. If we or any of our campuses experience a change in control under the standards of the ED, the ACs or the SAs, we or the affected campuses must seek the approval of the relevant regulatory agencies. Transactions or events that constitute a change in control for one or more of our regulatory agencies include:

- the acquisition of a school from another entity;
- significant acquisitions or dispositions of our common stock; and
- significant changes to the composition of our, or any campus, Board of Directors.

Some of these transactions or events may be beyond our control. Our failure to obtain, or a delay in obtaining, a required approval of any change in control from the relevant regulatory agencies could impair our ability or the ability of the affected campuses to participate in Title IV Programs, or could require us to suspend our recruitment of students in one or more states until we receive the required approval. A material adverse effect on our financial condition, results of operations and cash flows would result if we had a change in control and a material number of our campuses:

- failed to timely obtain the approvals of the SAs required prior to or following a change in control;
- failed to timely regain accreditation by the ACs or have their accreditation temporarily continued or reinstated by the ACs;
- failed to timely regain eligibility to participate in Title IV Programs from the ED or receive temporary certification to continue to participate in Title IV Programs pending further review by the ED; or
- were subjected by the ED to restrictions that severely limited for a substantial period of time the number of new additional locations and/or new programs of study that are eligible to participate in Title IV Programs.

The fact that a change in control would require approval of the relevant regulatory agencies, and the uncertainty and potential delay related to obtaining such approvals, could have the effect of making it more difficult for a third party to acquire, or discouraging a third party from attempting to acquire, control of us.

If we are unable to conclude successfully litigation against us, our business, financial condition and results of operations could be adversely affected. In the ordinary conduct of our business, we are subject to various lawsuits, investigations and claims, covering a wide range of matters, including, but not limited to, claims involving students or graduates and routine employment matters. It is possible that we may be required to pay substantial damages or settlement costs in excess of our insurance coverage to resolve those matters, which could have a material adverse effect on our financial condition or results of operation. See "Legal Proceedings." In connection with the securities class action and shareholder derivative lawsuits that are currently pending against us and some of our officers and directors, we have incurred, and expect to continue to incur, defense costs and other expenses, and we cannot assure you that the ultimate outcome of these or other actions will not have a material adverse effect on our financial condition or results of operations.

The personal information that we collect may be vulnerable to breach, theft or loss that could adversely affect our reputation and operations. Possession and use of personal information in our operations subjects us to risks and costs that could harm our business. In the ordinary course of our business, we collect, use and retain large amounts of personal information regarding prospective students, students, their families and employees. Some of this personal information is held and managed by certain of our vendors. Although we use security and business controls to limit access and use of personal information, a third party may be able to circumvent those security and business controls, which could result in a breach of student or employee privacy. In addition, errors in the storage, use or transmission of personal information could result in a breach of student or employee privacy. Possession and use of personal information in our operations also subjects us to legislative and regulatory burdens that could require notification of data breaches and restrict our use of personal information. We cannot assure you that a breach, loss or theft of personal information will not occur. A major breach, theft or loss of personal information regarding our students and their families or our employees that is held by us or our vendors could subject us to costly claims or litigation, have a material adverse effect on our reputation and results of operations and result in further regulation and oversight by federal and state authorities and increased costs of compliance. Potential new federal or state laws and regulations also may increase our costs of compliance or limit our ability to use personal information to recruit students.

Security breaches or system interruptions or delays involving our computer networks could disrupt our operations, damage our reputation, limit our ability to attract and retain students and require us to expend significant resources. The performance and reliability of our computer systems are critical to our information management, reputation and ability to attract and retain students. Any system error or failure, or a sudden and significant increase in traffic, could disrupt the provision of education to students attending our campuses. We cannot assure you that we will be able to expand the infrastructure of our computer systems on a timely basis sufficient to meet demand. Our computer systems and operations could be vulnerable to interruption or malfunction due to events beyond our control, including natural disasters and telecommunications failures. Any interruption to our computer systems could have a material adverse effect on our operations and ability to attract and retain students. These factors could affect the number of students who attend our campuses and have a material adverse effect on our results of operations.

Our computer systems may be vulnerable to unauthorized access, computer hackers, computer viruses and other security problems. A user who circumvents security measures could misappropriate proprietary information or cause interruptions or malfunctions in operations. As a result, we may be required to expend significant resources to protect against the threat of those security breaches or to alleviate problems caused by those breaches. These factors could affect the number of students who attend our campuses and have a material adverse effect on our results of operations.

We rely on exclusive proprietary rights and intellectual property that may not be adequately protected under current laws, and we may encounter disputes from time to time relating to our use of intellectual property of third parties. Our success depends in part on our ability to protect our proprietary rights. We rely on a combination of copyrights, trademarks, service marks, trade secrets, domain names and agreements to protect our proprietary rights. We rely on service mark and trademark protection in the United States to protect our rights to distinctive marks associated with our services. We rely on agreements under which we obtain rights to use the "ITT" and related marks and course content developed by our faculty, our other employees and third party content experts. We cannot assure you that those measures will be adequate, that we have secured, or will be able to secure, appropriate protections for all of our proprietary rights, or that third parties will not infringe upon or violate our proprietary rights. Despite our efforts to protect those rights, unauthorized third parties may attempt to duplicate or copy the proprietary aspects of our names, curricula and other content. Our management's attention may be diverted by those attempts and we may need to use funds in litigation to protect our proprietary rights against any infringement or violation.

We may encounter disputes from time to time over rights and obligations concerning intellectual property, and we may not prevail in those disputes. In certain instances, we may not have obtained sufficient rights in the content of a course or a program of study. Third parties may raise a claim against us alleging an infringement or violation of the intellectual property of that third party. Some third party intellectual property rights, such as certain patent rights, may be extremely broad, and it may not be possible for us to conduct our operations in such a way as to avoid infringing upon those intellectual property rights. Any such intellectual property claim could subject us to costly litigation, regardless of whether the claim has merit. Our insurance coverage may not cover potential claims of this type adequately or at all, and we may be required to alter the content of our courses or programs of study, or pay significant monetary damages, any of which could have a material adverse effect on our results of operations.

Risk Related to Our Common Stock

The trading price of our common stock may fluctuate substantially in the future. The trading price of our common stock may fluctuate substantially as a result of a number of factors, some of which are not within our control. Those factors include, among others:

- our ability to meet or exceed our own forecasts or expectations of analysts or investors;

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- quarterly variations in our operating results;
- changes in federal and state laws and regulations and accreditation standards, or changes in the way that laws, regulations and accreditation standards are interpreted and applied;
- the initiation, pendency or outcome of litigation, regulatory reviews and investigations, and any adverse publicity related thereto;
- negative media reports with respect to our industry;
- changes in our own forecasts or earnings estimates by analysts;
- price and volume fluctuations in the overall stock market, which have affected the market prices of many companies in the proprietary, postsecondary education industry in recent periods;
- the availability of financing for our students;
- the loss of key personnel; and
- general economic conditions.

Those factors could adversely affect the trading price of our common stock and could prevent an investor from selling shares of our common stock at or above the price at which those shares were purchased.

Item 1B. Unresolved Staff Comments.

Not applicable.

Item 2. Properties.

As of December 31, 2011, we:

- leased 128 facilities used by our campuses and learning sites;
- owned 42 facilities used by our campuses; and
- leased seven facilities that are intended to be used by new campuses in 2012.

Thirteen of the owned facilities and three of the leased facilities are used by DWC. Our facilities are located in 39 states. None of the facilities owned by us is subject to a mortgage or other indebtedness.

We generally locate our campuses in suburban areas near major population centers. We generally house our campus facilities in modern, air conditioned buildings, which include classrooms, laboratories, student break areas and administrative offices. Our campuses typically have accessible parking facilities and are generally near a major highway. The facilities at our locations range in size from approximately 10,000 to 58,000 square feet. The initial lease terms of our leased facilities range from two to 15 years. The average remaining lease term of our leased facilities is approximately three years. If desirable or necessary, a campus may be relocated to a new facility reasonably near the existing facility at the end of the lease term.

We own our headquarters building in Carmel, Indiana, which represents approximately 43,000 square feet of office space.

Item 3. Legal Proceedings.

We are subject to various claims and contingencies in the ordinary course of our business, including those related to litigation, business transactions, employee-related matters and taxes, among others. We cannot assure you of the ultimate outcome of any litigation involving us. Any litigation alleging violations of education or consumer protection laws and/or regulations, misrepresentation, fraud or deceptive practices may also subject our affected campuses to additional regulatory scrutiny.

On November 3, 2010, a complaint in a securities class action lawsuit was filed against us and two of our current executive officers in the United States District Court for the Southern District of New York under the following caption: *Operating Engineers Construction Industry and Miscellaneous Pension Fund, Individually and On Behalf of All Others Similarly Situated v. ITT Educational Services, Inc., et al.* (the "Securities Litigation"). On January 21, 2011, the court named the Wyoming Retirement System as the lead plaintiff in the Securities Litigation. On April 1, 2011, an amended complaint was filed in the Securities Litigation under the following caption: *In re ITT Educational Services, Inc. Securities and Shareholder Derivative Litigation*. The amended complaint alleges, among other things, that:

- the defendants violated Section 10(b) and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder by creating and implementing a systemically predatory business model that operated as a fraud or deceit on purchasers of our common stock during the class period by misrepresenting our financials and future business prospects;
- the defendants' misrepresentations and material omissions caused our common stock to trade at artificially inflated prices throughout the class period; and
- the market's expectations were ultimately corrected on August 13, 2010 when the ED published the loan repayment rate of our students under a formula contained in proposed regulations published by the ED on July 26, 2010.

The putative class period in this action is from October 23, 2008 through August 13, 2010. The plaintiff seeks, among other things, the designation of this action as a class action, and an award of unspecified compensatory damages, interest, costs, expenses, attorneys' fees and expert fees. All of the defendants intend to defend themselves vigorously against the allegations made in the complaint.

On November 12, 2010, a complaint in a shareholder derivative lawsuit was filed against three of our current executive officers and all of our current Directors in the United States District Court for the Southern District of New York under the following caption: *Antonio Cosing, Derivatively and On Behalf of ITT Educational Services, Inc. v. Kevin M. Modany, et al.* (the "Cosing Lawsuit"). The complaint alleges, among other things, that from October 23, 2008 through August 13, 2010, the defendants breached their fiduciary duties to us, abused their ability to control and influence us, grossly mismanaged us, caused us to waste corporate assets and were unjustly enriched, by:

- causing us to encourage our students to lie on their financial aid applications;
- causing us to lie to our students concerning the costs, quality, value and duration of their programs of study, their job prospects and income expectations upon graduation, and the availability of student financial aid;
- causing us to issue a series of materially false and misleading statements regarding our financial results; and
- causing or allowing us to lack the requisite internal controls.

The complaint seeks:

- unspecified damages;
- extraordinary equitable and/or injunctive relief, including attaching, impounding, imposing a constructive trust on or otherwise restricting the proceeds of, the defendants' assets;
- restitution;
- disgorgement of profits, benefits and other compensation received by the individual defendants;
- an order directing us to take all necessary actions to reform and improve our corporate governance and internal procedures; and
- costs and disbursements, including attorneys', accountants' and experts' fees, costs and expenses.

All of the individual defendants intend to defend themselves vigorously against the allegations in the complaint. On December 14, 2010, the Cosing Lawsuit was consolidated into the Securities Litigation.

On November 22, 2010, another complaint in a shareholder derivate lawsuit was filed against seven of our current officers and all of our current Directors in the United States District Court for the Southern District of Indiana under the following caption: *Roger B. Orensteen, derivatively on behalf of ITT Educational Services, Inc. v. Kevin M. Modany, et al.* The complaint alleges, among other things, that, from January 2008 through August 2010, the defendants violated Sections 10(b) and 20(a) of the Exchange Act, breached their fiduciary duties to us, abused their ability to control and influence us, grossly mismanaged us, caused us to waste corporate assets and were unjustly enriched, by:

- employing devices, schemes and artifices to defraud;
- making untrue statements of material facts, or omitting material facts necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading;
- engaging in acts, practices and a course of business that operated as a fraud or deceit upon the plaintiff or others similarly situated in connection with their purchase of our common stock;
- selling shares of our stock while in possession of material adverse, non-public information;
- causing us to repurchase shares of our stock at artificially inflated prices;
- reviewing and approving false financial statements with respect to us and ineffective internal control over our financial reporting;
- receiving compensation based on artificially inflated financial results and other performance metrics; and
- subjecting us to hundreds of millions of dollars of liability.

The complaint seeks:

- unspecified damages;
- an order directing us to take all necessary actions to reform and improve our corporate governance and internal procedures;
- restitution;
- disgorgements of profits, benefits and other compensation received by the individual defendants; and
- costs and disbursements, including attorneys', accountants' and experts' fees, costs and expenses.

All of the individual defendants intend to defend themselves vigorously against the allegations in the complaint.

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On December 3, 2010, another complaint in a shareholder derivative lawsuit was filed against two of our current executive officers and all of our current Directors in the United States District Court for the Southern District of New York under the following caption: *J. Kent Gregory, derivatively on behalf of ITT Educational Services, Inc. v. Kevin M. Modany, et al.* (the "Gregory Lawsuit"). The complaint alleges, among other things, that the defendants breached their fiduciary duties to us, were unjustly enriched by us and misappropriated information about us, by:

- knowingly, recklessly or negligently signing or approving the issuance of false annual and quarterly financial statements about us that misrepresented and failed to disclose material information about our growth prospects, tuition costs and student loan repayment rates;
- receiving compensation from us that was tied to our performance during times when they knew or should have known that our financial results and performance were artificially inflated; and
- selling our stock when they knew that our financial results were overstated.

The complaint seeks:

- unspecified damages;
- an order directing us to take all necessary actions to reform and improve our corporate governance and internal procedures;
- restitution;
- disgorgement of profits, benefits and other compensation received by the individual defendants; and
- costs and disbursements, including reasonable attorneys', accountants' and experts' fees, costs and expenses.

All of the individual defendants intend to defend themselves vigorously against the allegations in the complaint. The Gregory Lawsuit was consolidated into the Cosing Lawsuit on December 13, 2010 and further consolidated into the Securities Litigation on December 14, 2010.

Although the derivative actions are brought nominally on behalf of us, we expect to incur defense costs and other expenses in connection with the derivative lawsuits. There can be no assurance that the ultimate outcome of these or other actions (including other actions under federal or state securities laws) will not have a material adverse effect on our financial condition, results of operations or cash flows.

The officers named in one or more of the securities class action and shareholder derivative lawsuits described above include: Jeffrey R. Cooper, Clark D. Elwood, Nina F. Esbin, Eugene W. Feichtner, Daniel M. Fitzpatrick, Kevin M. Modany and Martin Van Buren.

Certain of our officers and Directors are or may become a party in certain of the actions described above. Our By-laws and Restated Certificate of Incorporation obligate us to indemnify our officers and Directors to the fullest extent permitted by Delaware law, provided that their conduct complied with certain requirements. We are obligated to advance defense costs to our officers and Directors, subject to the individual's obligation to repay such amount if it is ultimately determined that the individual was not entitled to indemnification. In addition, our indemnity obligation can, under certain circumstances, include indemnifiable judgments, penalties, fines and amounts paid in settlement in connection with those actions.

Item 4. (Removed and Reserved).

PART II

Item 5. Market For Registrant's Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities.

Our common stock is listed on the NYSE under the "ESI" trading symbol. The prices set forth below are the high and low sale prices of our common stock on the NYSE during the periods indicated.

	2011		2010	
Fiscal Quarter Ended	**High**	**Low**	**High**	**Low**
March 31	$ 76.82	$ 55.66	$ 118.35	$ 92.76
June 30	$ 92.13	$ 65.07	$ 121.98	$ 82.63
September 30	$ 95.52	$ 55.30	$ 95.62	$ 50.00
December 31	$ 69.58	$ 50.22	$ 72.70	$ 52.00

There were 91 holders of record of our common stock on February 15, 2012.

We did not pay a cash dividend in 2011 or 2010. We do not anticipate paying any cash dividends on our common stock in the foreseeable future. The declaration and payment of dividends on our common stock are subject to the discretion of our Board of Directors and compliance with applicable law. In addition, our credit agreement prohibits the payment of cash dividends on our common stock. Our decision to pay dividends in the future will depend on general business conditions, the effect of such payment on our financial condition, the restrictions under our credit agreement and other factors our Board of Directors may in the future consider to be relevant.

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We did not sell any of our securities during the three months ended December 31, 2011 that were not registered under the Securities Act. In January 2012, we credited 1,318 treasury shares of our common stock to the deferred share accounts of each of two non-employee directors under the ESI Non-Employee Directors Deferred Compensation Plan (the "Directors Deferred Compensation Plan") in payment of their annual retainer for 2012. These shares of our common stock will be issued upon the termination of the non-employee director's service as a non-employee director for any reason, including retirement or death. In January 2012, we also issued 659 treasury shares of our common stock to one non-employee director under the Directors Deferred Compensation Plan in payment of his annual retainer for 2012. The transactions described in this paragraph are exempt from the registration requirements of the Securities Act pursuant to Section 4(2) thereof.

The following table sets forth information regarding purchases made by us of shares of our common stock on a monthly basis during the fourth quarter of 2011:

Issuer Purchases of Equity Securities

Period	Total Number of Shares Purchased	Average Price Paid per Share	Total Number of Shares Purchased as Part of Publicly Announced Plans or Programs [(1)]	Maximum Number of Shares that May Yet Be Purchased Under the Plans or Programs [(1)]
October 1, 2011 through October 31, 2011	145,000	$ 65.71	145,000	6,221,725
November 1, 2011 through November 30, 2011	425,000	$ 59.00	425,000	5,796,725
December 1, 2011 through December 31, 2011	0	0	0	5,796,725
Total	570,000	$ 60.71	570,000	

(1) Our Board of Directors has authorized us to repurchase the following number of shares of our common stock pursuant to our repurchase program (the "Repurchase Program"):

Number of Shares	Board Authorization Date
2,000,000	April 1999
2,000,000	April 2000
5,000,000	October 2002
5,000,000	April 2006
5,000,000	April 2007
5,000,000	January 2010
5,000,000	October 2010
5,000,000	July 2011

The shares that remained available for repurchase under the Repurchase Program were 5,796,725 as of December 31, 2011. The terms of the Repurchase Program provide that we may repurchase shares of our common stock, from time to time depending on market conditions and other considerations, in the open market or through privately negotiated transactions in accordance with Rule 10b-18 of the Exchange Act. Unless earlier terminated by our Board of Directors, the Repurchase Program will expire when we repurchase all shares authorized for repurchase thereunder.

The performance graph set forth below compares the cumulative total shareholder return on our common stock with the S&P 500 Index and a Peer Issuer Group Index for the period from December 31, 2006 through December 31, 2011. The peer issuer group consists of the following companies selected on the basis of the similar nature of their business: American Public Education, Inc., Apollo Group, Inc., Bridgepoint Education, Inc., Capella Education Company, Career Education Corp., Corinthian Colleges, Inc., DeVry, Inc., Education Management Corporation, Grand Canyon Education, Inc., Lincoln Educational Services Corporation, Strayer Education, Inc. and Universal Technical Institute, Inc. (the "Peer Issuer Group"). We believe that, including us, the Peer Issuer Group represents a significant portion of the market value of publicly traded companies whose primary business is postsecondary education.

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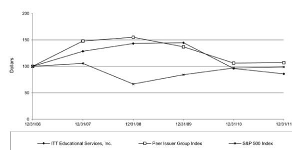
Cumulative Total Return
(Based on $100 invested on December 31, 2006 and assumes
the reinvestment of all dividends)



	12/31/06	12/31/07	12/31/08	12/31/09	12/31/10	12/31/11
ITT Educational Services, Inc.	100.00	128.48	143.11	144.58	95.96	85.72
Peer Issuer Group Index	100.00	147.79	154.98	136.84	106.14	106.81
S&P 500 Index	100.00	105.49	66.46	84.05	96.71	98.75

The preceding stock price performance graph and related information shall not be deemed "soliciting material" or to be "filed" with the SEC, nor shall such information be incorporated by reference into any future filing under the Securities Act or the Exchange Act, except to the extent that we specifically incorporate it by reference into such filing.

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Item 6. Selected Financial Data.

The following selected financial data are qualified by reference to and should be read with our Consolidated Financial Statements and Notes to Consolidated Financial Statements and other financial data included elsewhere in this report.

	Year Ended December 31,				
	2011	2010	2009	2008	2007
	(Dollars in thousands, except per share data)				
Statement of Income Data:					
Revenue	$ 1,499,949	$ 1,596,529	$ 1,319,194	$ 1,015,333	$ 869,508
Cost of educational services	553,065	537,855	449,835	383,769	358,601
Student services and administrative expenses	439,808	445,125	380,567	306,099	267,815
Total costs and expenses	992,873	982,980	830,402	689,868	626,416
Operating income	507,076	613,549	488,792	325,465	243,092
Interest income, net	1,077	586	2,565	1,894	2,455
Income before provision for income taxes	508,153	614,135	491,357	327,359	245,547
Provision for income taxes	200,401	239,969	191,094	125,854	93,308
Net income	$ 307,752	$ 374,166	$ 300,263	$ 201,505	$ 152,239
Earnings per share: (a)					
Basic	$ 11.22	$ 11.28	$ 8.01	$ 5.18	$ 3.78
Diluted	$ 11.13	$ 11.17	$ 7.91	$ 5.13	$ 3.72
Other Operating Data (b):					
Capital expenditures, net	$ 26,847	$ 26,811	$ 23,992	$ 17,543	$ 15,514
Facility expenditures and land purchases	$ 4,053	$ 6,118	$ 4,236	$ 18,093	$ 12,589
Number of students at end of period	73,255	84,686	80,766	61,983	53,027
Number of campuses at end of period	141	130	121	105	97
Number of learning sites at end of period	3	4	4	9	9

	As of December 31,				
	2011	2010	2009	2008	2007
	(Dollars in thousands)				
Balance Sheet Data:					
Cash and cash equivalents, restricted cash and investments	$ 379,609	$ 313,194	$ 274,086	$ 375,928	$ 317,202
Total current assets	$ 456,288	$ 414,097	$ 390,962	$ 431,045	$ 349,823
Property and equipment, less accumulated depreciation	$ 201,257	$ 198,213	$ 195,449	$ 166,671	$ 153,265
Total assets	$ 728,818	$ 674,780	$ 616,705	$ 608,348	$ 520,386
Total current liabilities	$ 345,047	$ 356,151	$ 284,792	$ 264,553	$ 291,924
Total long-term debt	$ 150,000	$ 150,000	$ 150,000	$ 150,000	$ 150,000
Total liabilities	$ 560,019	$ 546,710	$ 460,120	$ 434,504	$ 462,368
Shareholders' equity	$ 168,799	$ 128,070	$ 156,585	$ 173,844	$ 58,018

(a) Earnings per share for all periods have been calculated in conformity with Financial Accounting Standards Board ("FASB") Accounting Standards Codification ("ASC" or "Codification") 260, "Earnings Per Share". Earnings per share data are based on historical net income and the weighted average number of shares of our common stock outstanding during each period. The number of shares used to calculate basic earnings per share differs from the number of shares used to calculate diluted earnings per share. The number of shares used to calculate basic earnings per share was the weighted average number of common shares outstanding. The number of shares used to calculate diluted earnings per share was the weighted average number of common shares outstanding, plus the average number of shares that could be issued under our stock-based compensation plans and less the number of shares assumed to be purchased with any proceeds received from the exercise of awards under those plans.

(b) We did not pay any cash dividends in any of the periods presented.

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Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations.

The following discussion should be read with the Selected Financial Data and the Consolidated Financial Statements and Notes to Consolidated Financial Statements included elsewhere in this report.

This management's discussion and analysis of financial condition and results of operations is based on our consolidated financial statements, which have been prepared in conformity with generally accepted accounting principles in the United States. The preparation of these financial statements requires us to make estimates and judgments that affect the reported amount of assets, liabilities, revenue, expenses and contingent assets and liabilities. Actual results may differ from those estimates and judgments under different assumptions or conditions.

In this management's discussion and analysis of financial condition and results of operations, when we discuss factors that contributed to a change in our financial condition or results of operations, we disclose the primary factors that materially contributed to that change.

General

As of December 31, 2011, we had 144 locations (including 141 campuses and three learning sites) in 39 states, which were providing postsecondary education to approximately 73,000 students. In 2011, we derived approximately 98% of our revenue from tuition and approximately 2% from the sale of tool kits and fees, charged to and paid by, or on behalf of, our students. Most students at our institutions pay a substantial portion of their tuition and other education-related expenses with funds received under various government-sponsored student financial aid programs, especially Title IV Programs.

Our revenue varies based primarily on the following factors:

- the aggregate student population, which is influenced by the number of students attending our institutions at the beginning of a fiscal period and student retention rates;
- the amount of tuition charged to our students;
- the levels of availability and utilization of institutional scholarships, grants and awards; and
- alternative disbursement arrangements under private education loan programs.

New students generally enter our institutions at the beginning of an academic term that typically begins for most programs of study in early March, mid-June, early September and late November or early December. Our establishment of new locations and the introduction of additional program offerings at our existing locations have been significant factors in increasing the aggregate student population in recent years.

In order to participate in Title IV Programs, a new campus or learning site must be authorized by the state in which it will operate, accredited by an accrediting commission recognized by the ED, and certified by the ED to participate in Title IV Programs. The ED's certification process cannot commence until the location receives its state authorization and accreditation. In the last few years, we have experienced minimal delay in obtaining ED certification of our new campuses and learning sites.

We generally earn tuition revenue on a straight-line basis over the length of each of four, 12-week academic quarters in each fiscal year. State regulations, accrediting commission criteria and our policies generally require us to refund a portion of the tuition and fee payments received from a student who withdraws from one of our institutions during an academic term. We recognize immediately the amount of tuition and fees, if any, that we may retain after payment of any refund.

We incur expenses throughout a fiscal period in connection with the operation of our institutions. The cost of educational services includes salaries of faculty and institution administrators, cost of course materials, occupancy costs, depreciation and amortization of equipment costs, facilities and leasehold improvements, and other miscellaneous costs incurred by our institutions.

Student services and administrative expenses include marketing expenses, an expense for uncollectible accounts and administrative expenses incurred at our corporate headquarters. Marketing expenses include salaries and employee benefits for recruiting representatives and advertising expenses.

In 2011, we continued to add program offerings among existing campuses and learning sites, began operations at 11 new locations and discontinued operations at one learning site. We also continued our efforts to diversify our program offerings by developing residence and online programs at different degree levels in both technology and non-technology fields of study.

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The following table sets forth select operating and growth statistics for the periods indicated:

	Year Ended December 31,		
	2011	2010	2009
Additional program offerings	1,343	308	377
Number of campuses and learning sites with additional program offerings	132	87	106
Began operations at:			
New campuses	11	9	10 [1]
Converted learning sites to campuses	0	0	5
Campuses offering bachelor degree programs	128	119	102

[1] Excludes DWC

In 2012, we intend to add more of our current program offerings among most of our locations. We also plan to continue developing additional residence and online programs at different degree levels in technology and non-technology fields of study to be offered at our institutions. The new degree programs are expected to involve a variety of disciplines and be at the associate, bachelor and master degree levels. We intend to develop both a residence and online version of many of the new programs. We also intend to increase the number of our campuses that offer bachelor degree programs. In addition, we plan to begin operations at eight to ten new campuses in 2012. Our new campuses generally incur a loss up to 24 months after the first class start date.

Critical Accounting Policies and Estimates

We believe the following critical accounting policies affect our more significant estimates and judgments used in the preparation of our consolidated financial statements. These policies should be read in conjunction with Note 1 of the Notes to Consolidated Financial Statements.

Recognition of Revenue. Tuition revenue is recorded on a straight-line basis over the length of the applicable course to the extent that we consider the collectability of that revenue to be reasonably assured. If a student withdraws from an institution, the standards of most SAs that regulate our institutions, the ACs and our own internal policy limit a student's obligation for tuition and fees to the institution depending on when a student withdraws during an academic term. The terms of the Refund Policies vary by state, and the limitations imposed by the Refund Policies are generally based on the portion of the academic term that has elapsed at the time the student withdraws. Generally, the greater the portion of the academic term that has elapsed at the time the student withdraws, the greater the student's obligation is to the institution for the tuition and fees related to that academic term. We record revenue net of any refunds that result from any applicable Refund Policy. On an individual student basis, tuition earned in excess of cash received is recorded as accounts receivable, and cash received in excess of tuition earned is recorded as deferred revenue.

We do not charge a separate fee for textbooks that students use in their programs of study. We record the cost of these textbooks in prepaid expenses and other current assets and amortize the cost on a straight-line basis over the applicable course length. Tool kit sales, and the related cost, are recognized when the student receives the tool kit. Academic fees (which are charged only one time to students on their first day of class attendance) are recognized as revenue on a straight-line basis over the average program length. If a student withdraws from an institution, all unrecognized revenue relating to his or her fees, net of any refunds that result from any applicable Refund Policy, is recognized upon the student's departure. An administrative fee is charged to a student and recognized as revenue when the student withdraws or graduates from a program of study at an institution.

We derived 98% of our revenue from tuition and 2% from tool kit sales and student fees in each of the years ended December 31, 2011, 2010 and 2009. The amount of tuition earned depends on:

- the cost per credit hour of the courses in our programs;
- the length of a student's enrollment;
- the number of courses a student takes during each period of enrollment; and
- the total number of students enrolled in our programs.

Each of these factors is known at the time our tuition revenue is calculated.

Equity-Based Compensation. In accordance with ASC 718, "Compensation – Stock Compensation" ("ASC 718"), the value of our equity instruments exchanged for employee and director services is measured at the date of grant, based on the calculated fair value of the grant, and is recognized as an expense over the period of time that the grantee must provide services to us before the stock-based compensation is fully vested. The vesting period is generally the period set forth in the agreement granting the stock-based compensation. Under the terms of our stock-based compensation plans, some grants immediately vest in full when the grantee's employment or service terminates for death or disability, and, for grants made prior to November 24, 2010, when he or she retires. As a result, in certain

circumstances, the period of time that the grantee must provide services to us in order for that stock-based compensation to fully vest may be less than the vesting period set forth in the agreement granting the stock-based compensation. In these instances, compensation expense will be recognized over this shorter period. We recognize stock-based compensation expense on a straight-line basis over the service period applicable to the grantee.

We use a binomial option pricing model to determine the fair value of stock options granted, and we use the market price of our common stock to determine the fair value of restricted stock and restricted stock units ("RSUs") granted. Various assumptions are used in the binomial option pricing model to determine the fair value of the stock options. These assumptions are discussed in Note 1 of the Notes to Consolidated Financial Statements.

The following table sets forth the stock-based compensation expense and related income tax benefit recognized in our Consolidated Statements of Income in the periods indicated:

	Year Ended December 31,		
	2011	2010	2009
		(In thousands)	
Stock-based compensation expense	$ 17,074	$ 15,813	$ 13,074
Income tax (benefit)	($ 6,574)	($ 6,089)	($ 5,034)
	$ 10,501	$ 9,724	$ 8,040

As of December 31, 2011, we estimated that pre-tax compensation expense for unvested stock-based compensation grants in the amount of approximately $16.9 million, net of estimated forfeitures, will be recognized in future periods. We expect to recognize this expense over the remaining service period applicable to the grantees which, on a weighted average basis, is approximately two years.

See also Notes 1 and 4 of the Notes to Consolidated Financial Statements for a discussion of stock-based compensation and ASC 718.

Income Taxes. We follow ASC 740, "Income Taxes," which prescribes a single, comprehensive model for how a company should recognize, measure, present and disclose in its financial statements uncertain tax positions that the company has taken or expects to take on a tax return. This guidance requires us to evaluate whether it is more likely than not, based on the technical merits of a tax position, that the benefits resulting from the position will be realized by us.

Accounts Receivable and Allowance for Doubtful Accounts. We extend unsecured credit to our students for tuition and fees and we record a receivable for the tuition and fees earned in excess of the payment received from or on behalf of a student. The individual student balances of these receivables are insignificant. We record an allowance for doubtful accounts with respect to accounts receivable based on the students' credit profiles and our historical collection experience related to amounts owed by our students with similar credit profiles. If our collection trends were to differ significantly from our historical collection experience, we would make a corresponding adjustment to our allowance for doubtful accounts.

When a student is no longer enrolled in a program of study at one of our campuses, we increase the allowance for doubtful accounts related to the former student's receivable balance to reflect the amount we estimate will not be collected. The amount that we estimate will not be collected is based on a review of the historical collection experience for each campus, adjusted as needed to reflect other facts and circumstances. We review the collection activity after a student withdraws or graduates from a campus and will write off the accounts receivable if we conclude that collection of the balance is not probable.

Fair Value. ASC 820, "Fair Value Measurements" ("ASC 820"), defines fair value for financial reporting as the price that would be received upon the sale of an asset or paid upon the transfer of a liability in an orderly transaction between market participants at the measurement date. The fair value measurement of our financial assets utilized assumptions categorized as observable inputs under ASC 820. Observable inputs are assumptions based on independent market data sources.

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The following table sets forth information regarding the fair value measurement of our financial assets as of December 31, 2011:

Description	As of December 31, 2011	Fair Value Measurements at Reporting Date Using (Level 1) Quoted Prices in Active Markets for Identical Assets	(Level 2) Significant Other Observable Inputs	(Level 3) Significant Unobservable Inputs
		(In thousands)		
Cash equivalents:				
Money market funds	$ 228,287	$ 228,287	$ 0	$ 0
Short-term investments:				
U.S. Treasury obligations	100,517	100,517	0	0
Government agency obligations	31,351	0	31,351	0
Corporate obligations	16,620	0	16,620	0
Other assets:				
Money market fund	7,576	7,576	0	0
	$ 384,351	$ 336,380	$ 47,971	$ 0

We used quoted prices in active markets for identical assets as of the measurement date to value our financial assets that were categorized as Level 1. For assets that were categorized as Level 2, we used:

- quoted prices for similar assets in active markets;
- quoted prices for identical or similar assets in markets that were not active or in which little public information had been released;
- inputs other than quoted prices that were observable for the assets; or
- inputs that were principally derived from or corroborated by observable market data by correlation or other means.

Property and Equipment. We include all property and equipment in the financial statements at cost and make provisions for depreciation of property and equipment using the straight-line method. The following table sets forth the general ranges of the estimated useful lives of our property and equipment:

Type of Property and Equipment	Estimated Useful Life
Furniture and equipment	3 to 10 years
Leasehold, building and land improvements	3 to 14 years
Buildings	20 to 40 years
Software	3 to 8 years

Changes in circumstances, such as changes in our curricula and technological advances, may result in the actual useful lives of our property and equipment differing from our estimates. We regularly review and evaluate the estimated useful lives of our property and equipment. Although we believe that our assumptions and estimates are reasonable, deviations from our assumptions and estimates could produce a materially different result.

We regularly review our long-lived assets for impairment whenever events or changes in circumstances indicate that the carrying amounts of those assets may not be recoverable. If the carrying value of the asset exceeds its fair market value, we recognize an impairment loss equal to the difference. We base our impairment analyses of long-lived assets on our current business strategy, expected growth rates and estimates of future economic and regulatory conditions.

Contingent Liabilities. We are subject to various claims and contingencies in the ordinary course of our business, including those related to litigation, business transactions and employee-related matters, among others. When we are aware of a claim or potential claim, we assess the likelihood of any loss or exposure. If it is probable that a loss will result and the amount of the loss can be reasonably estimated, we record a liability for the loss. The liability recorded includes probable and estimable legal costs associated with the claim or potential claim. If the loss is not probable or the amount of the loss cannot be reasonably estimated, we disclose the claim if the likelihood of a potential loss is reasonably possible and the amount involved is material. Although we believe our estimates are reasonable, deviations from our estimates could produce a materially different result.

Guarantees. In accordance with ASC 460, "Guarantees," we recognize a liability for the fair value of a guarantee obligation upon its issuance. We evaluate the fair value of our guarantee obligations periodically and adjust the liability as warranted. The fair market value of our guarantees related to certain private student loan programs

were estimated based on historical charge off experience with respect to private loans made to our students and the present value of the expected cash flows, taking into consideration current economic conditions, that may result from the settlement of the guarantee obligations in the future. Although we believe our estimates are reasonable, deviations from our estimates could produce a materially different result.

New Accounting Guidance

In December 2011, the FASB issued Accounting Standards Update ("ASU") No. 2011-12, which is included in the Codification under ASC 220, "Comprehensive Income" ("ASC 220"). This update defers the effective date of ASU No. 2011-05 for changes that relate to the presentation of reclassification adjustments out of accumulated other comprehensive income. None of the other requirements in ASU 2011-05 are affected by this update. This guidance became effective for our interim and annual reporting periods beginning January 1, 2012. The adoption of this guidance will not have a material impact on our consolidated financial statements.

Also in December 2011, the FASB issued ASU No. 2011-11, which is included in the Codification under ASC 210, "Balance Sheet." This update provides for enhanced disclosures to help users of financial statements evaluate the effect or potential effect of netting arrangements on an entity's financial position. This guidance is effective for interim and annual reporting periods beginning January 1, 2013. We have not yet determined the effect that the adoption of this guidance will have on our financial statements.

In September 2011, the FASB issued ASU No. 2011-08, which is included in the Codification under ASC 350, "Intangibles – Goodwill and Other" ("ASC 350"). This update allows an entity to assess qualitative factors to determine whether it is necessary to perform the two-step quantitative goodwill impairment test. This guidance became effective for our interim and annual reporting periods beginning January 1, 2012. The adoption of this guidance will not have a material impact on our consolidated financial statements.

In June 2011, the FASB issued ASU No. 2011-05, which is included in the Codification under ASC 220. This update requires total comprehensive income, the components of net income and the components of other comprehensive income to be presented either in a single continuous statement or in two separate but consecutive statements. This guidance became effective for our interim and annual reporting periods beginning January 1, 2012. Prior to January 1, 2012, we presented total Comprehensive income and the components of Other comprehensive income in our Consolidated Statements of Shareholders' Equity. The adoption of this guidance will require us to present Comprehensive income on a different statement.

In May 2011, the FASB issued ASU No. 2011-04, which is included in the Codification under ASC 820. This update provides guidance and clarification about the application of existing fair value measurements and disclosure requirements. This guidance became effective for our interim and annual reporting periods beginning January 1, 2012. The adoption of this guidance will not have a material impact on our consolidated financial statements.

In December 2010, the FASB issued ASU No. 2010-29, which is included in the Codification under ASC 805, "Business Combinations." This update provides guidance on the disclosure of supplemental pro forma information for business combinations. This guidance became effective for our interim and annual reporting periods beginning January 1, 2011. The adoption of this guidance did not have a material impact on our consolidated financial statements.

Also in December 2010, the FASB issued ASU No. 2010-28, which is included in the Codification under ASC 350. This update provides guidance on applying the goodwill impairment test for reporting units with zero or negative carrying amounts. This guidance became effective for our interim and annual reporting periods beginning January 1, 2011. The adoption of this guidance did not have a material impact on our consolidated financial statements.

Variations in Quarterly Results of Operations

Our quarterly results of operations have tended to fluctuate within a fiscal year due to the timing of student matriculations. Each of our four fiscal quarters has 12 weeks of earned tuition revenue. Revenue in our third and fourth fiscal quarters generally benefits from increased student matriculations. The number of new students entering our institutions tends to be higher in September, which is the time that the public has traditionally associated with the start of a new school year. The academic schedule generally does not affect our incurrence of most of our costs, however, and costs do not fluctuate significantly on a quarterly basis.

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The following table sets forth our revenue for the periods indicated:

	Quarterly Revenue (Dollars in thousands)					
	2011		2010		2009	
Three Months Ended	Amount	Percent	Amount	Percent	Amount	Percent
March 31	$ 383,171	25.5%	$ 383,957	24.0%	$ 288,033	21.8%
June 30	387,877	25.9%	401,849	25.2%	317,140	24.0%
September 30	360,638	24.0%	400,597	25.1%	339,643	25.8%
December 31	368,263	24.6%	410,126	25.7%	374,378	28.4%
Total for Year	$ 1,499,949	100.0%	$ 1,596,529	100.0%	$ 1,319,194	100.0%

Results of Operations

The following table sets forth the percentage relationship of certain statement of income data to revenue for the periods indicated:

	Year Ended December 31,		
	2011	2010	2009
Revenue	100.0%	100.0%	100.0%
Cost of educational services	36.9%	33.7%	34.1%
Student services and administrative expenses	29.3%	27.9%	28.8%
Operating income	33.8%	38.4%	37.1%
Interest income, net	0.1%	0.1%	0.2%
Income before income taxes	33.9%	38.5%	37.3%

The following table sets forth our total student enrollment as of the dates indicated:

As of December 31,	Total Student Enrollment	Increase (Decrease) To Prior Year
2011	73,255	(13.5%)
2010	84,686	4.9%
2009	80,766	30.3%

Total student enrollment includes all new and continuing students. A continuing student is any student who, in the academic term being measured, is enrolled in a program of study at one of our campuses and was enrolled in the same program at any of our campuses at the end of the immediately preceding academic term. A new student is any student who, in the academic term being measured, enrolls in and begins attending any program of study at one of our campuses:

- for the first time at that campus;
- after graduating in a prior academic term from a different program of study at that campus; or
- after having withdrawn or been terminated from a program of study at that campus.

The following table sets forth our new student enrollment in the periods indicated:

	2011		2010		2009	
New Student Enrollment in the Three Months Ended:	New Student Enrollment	Increase (Decrease) To Prior Year	New Student Enrollment	Increase (Decrease) To Prior Year	New Student Enrollment[(1)]	Increase Over Prior Year[(1)]
March 31	21,761	(5.6%)	23,064	21.8%	18,935	36.8%
June 30	17,351	(19.9%)	21,673	10.1%	19,692	33.5%
September 30	22,909	(14.1%)	26,664	(3.9%)	27,738	27.2%
December 31	15,125	(14.7%)	17,722	(9.4%)	19,563	31.2%
Total for the year	77,146	(13.4%)	89,123	3.7%	85,928	31.6%

(1) New students enrolled at DWC have been included beginning with the September 30, 2009 period.

We believe that economic downturns in the United States, in particular those that result in higher unemployment rates among unskilled workers, have historically been associated with increased student enrollment at postsecondary educational institutions. Based on this, we believe that the economic recession in the United States which gave rise to higher unemployment among unskilled workers in 2009 and 2010 may have contributed to the year-over-year increases in our new and total student enrollment through the quarter ended June 30, 2010. These increases had a material favorable effect on our results of operations, cash flows and financial condition. There are a number of other

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factors, however, that affect new student enrollment, including changes in the types and levels of utilization of the various forms of media advertising that we use, which have recently negatively impacted, and could continue to negatively impact, new student enrollment.

We believe that the 19.9% decrease in new student enrollment in the three months ended June 30, 2011 compared to the same period in 2010 resulted primarily from:

- reductions in the levels of advertising in the traditional media sources that we utilize due to increased costs of those sources, which resulted in a reduction in the number of prospective students who inquired about our programs of study; and
- a decrease in the rate at which prospective students who applied for enrollment actually began attending classes in their program of study.

We believe that the 14.1% decrease in new student enrollment in the three months ended September 30, 2011 compared to the three months ended September 30, 2010 and the 14.7% decrease in new student enrollment in the three months ended December 31, 2011 compared to the three months ended December 31, 2010 resulted primarily from reductions in the levels of advertising in the traditional media sources that we utilize due to increased costs of these sources, which resulted in a reduction in the number of prospective students who inquired about our programs of study. The decrease in new student enrollment in the three months ended December 31, 2011 compared to the prior year can also be attributed to changes that we made to program offerings at select campuses which resulted in a more significant decline in new student enrollment in the criminal justice programs of study compared to our other curricula.

At the vast majority of our campuses, we generally organize the academic schedule for programs of study offered on the basis of four 12-week academic quarters in a calendar year. The academic quarters typically begin in early March, mid-June, early September and late November or early December. To measure the persistence of our students, the number of continuing students in any academic term is divided by the total student enrollment in the immediately preceding academic term.

The following table sets forth the rates of our students' persistence as of the dates indicated:

	Student Persistence as of[1]:			
Year	**March 31**	**June 30**	**September 30**	**December 31**
2011	73.5%	73.1%	71.5%	73.4%
2010	76.1%	74.5%	72.4%	76.1%
2009	75.3%	75.3%	73.6%	77.3%

(1) Students enrolled at DWC have been included beginning with the rate as of September 30, 2009. The inclusion of DWC students in our students' persistence did not have a material impact.

The decrease in student persistence as of December 31, September 30, and June 30, 2011 compared to the corresponding prior year end dates was primarily due to a higher number of students who graduated at the end of the academic periods that began in September, June and March 2011 compared to the end of the same academic periods in the prior year.

The decrease in student persistence as of March 31, 2011 and December 31, September 30 and June 30, 2010 compared to the corresponding prior year dates was primarily due to, in order of significance:

- a higher number of students who graduated at the end of the academic periods that began in December, September, June and March 2010 compared to the end of the same academic periods in the prior year; and
- a slight decrease in student retention in the academic periods that began in December, September, June and March 2010 compared to the same academic periods in the prior year.

We believe that the slight decrease in student retention in the academic period that began in December 2010 was due primarily to weather-related disruptions that affected the academic calendar. In the absence of those disruptions, we believe that student retention in the academic period that began in December 2010 would have been substantially similar to student retention in the same academic period that began in 2009.

We believe that student persistence may decline in 2012 compared to 2011, primarily due to a significant increase in the number of students who are scheduled to graduate in 2012 compared to 2011. A decline in student persistence, along with any decrease in new student enrollment, would negatively impact our total student enrollment in 2012.

Year Ended December 31, 2011 Compared with Year Ended December 31, 2010. Revenue decreased $96.6 million, or 6.0%, to $1,500.0 million in the year ended December 31, 2011 compared to $1,596.5 million in the year ended December 31, 2010. The primary factors that contributed to this decrease included, in order of significance:

- an average 7.8% decrease in total student enrollment in each academic quarter beginning in 2011 compared to 2010; and
- an increase in the amount of institutional scholarships and other awards that we granted to our students in 2011 compared to 2010.

The decrease in revenue was partially offset by:

- a 4.9% increase in total student enrollment at December 31, 2010 compared to December 31, 2009; and
- a 5% increase in tuition rates in March 2010.

While we have typically increased tuition rates for our programs of study annually, we did not increase tuition rates for our ITT Technical Institute programs in 2011, and we do not intend to increase tuition rates for our ITT Technical Institute programs in 2012. We believe that the amount of scholarships and other awards available to our students in 2012 will be approximately the same as the amount available in 2011. In 2011, we began offering new programs of study that involve a modified delivery format which increases the credit hours per course and reduces the number of academic quarters required for a full-time student to graduate. The increase in credit hours per course results in an increase in the amount of revenue recognized per course compared to the programs of study previously offered. We believe that the combination of these factors could result in a slight increase in our average revenue per student in 2012.

Cost of educational services increased $15.2 million, or 2.8%, to $553.1 million in the year ended December 31, 2011 compared to $537.9 million in the year ended December 31, 2010. The primary factors that contributed to this increase included, in order of significance:

- costs associated with operating new campuses;
- an increase in legal expenses; and
- an increase in compensation and benefit costs.

Cost of educational services as a percentage of revenue increased 320 basis points to 36.9% in the year ended December 31, 2011 compared to 33.7% in the year ended December 31, 2010. The primary factors that contributed to this increase included, in order of significance:

- a decline in revenue;
- costs associated with operating new campuses;
- an increase in legal expenses; and
- an increase in compensation and benefit costs.

Student services and administrative expenses decreased $5.3 million, or 1.2%, to $439.8 million in the year ended December 31, 2011 compared to $445.1 million in the year ended December 31, 2010. The principal cause of this decrease was a reduction in bad debt expense, which was partially offset by an increase in media advertising expenses.

Student services and administrative expenses increased to 29.3% of revenue in the year ended December 31, 2011 compared to 27.9% of revenue in the year ended December 31, 2010. The principal causes of this increase were the decline in revenue and an increase in media advertising expenses, which were substantially offset by a decrease in bad debt expense. Bad debt expense as a percentage of revenue decreased to 4.1% in the year ended December 31, 2011 compared to 5.4% in the year ended December 31, 2010. The primary factor that contributed to the decrease in bad debt expense as a percentage of revenue was a decrease in the amount of internal student financing that we provided to our students in the year ended December 31, 2011 compared to the year ended December 31, 2010. The decrease in the amount of internal student financing was primarily due to the amount of institutional scholarships and other awards and the private education loan programs available to our students in 2011. We believe that our bad debt expense as a percentage of revenue will likely increase in the fiscal year ending December 31, 2012, primarily due to an increase in the amount of internal student financing that we may provide to our students in 2012 compared to 2011 as a result of the expiration in 2011 of the two private education loan programs that provided the vast majority of private education loans to our students in 2011.

Operating income decreased $106.5 million, or 17.4%, to $507.1 million in the year ended December 31, 2011 compared to $613.5 million in the year ended December 31, 2010 as a result of the impact of the factors discussed above in connection with revenue, cost of educational services and student services and administrative expenses. Our operating margin decreased to 33.8% in the year ended December 31, 2011 compared to 38.4% in the year ended December 31, 2010, primarily due to the impact of the factors discussed above. We believe that our operating margin in 2012 will decline compared to 2011, primarily due to lower total student enrollment in 2012 compared to 2011.

Interest income increased $0.4 million, or 15.9%, to $2.9 million in the year ended December 31, 2011 compared to $2.5 million in the year ended December 31, 2010, primarily due to amortization of the discount on a subordinated note that we issued in connection with the PEAKS Program. Interest expense decreased $0.1 million, or 4.8%, to $1.8 million in the year ended December 31, 2011 compared to $1.9 million in the year ended December 31, 2010, primarily due to a decrease in the effective interest rate on our revolving credit facilities.

Our combined federal and state effective income tax rate was 39.4% in the year ended December 31, 2011 compared to 39.1% in the year ended December 31, 2010.

Year Ended December 31, 2010 Compared with Year Ended December 31, 2009. Revenue increased $277.3 million, or 21.0%, to $1,596.5 million in the year ended December 31, 2010 compared to $1,319.2 million in the year ended December 31, 2009. The primary factors that contributed to this increase included, in order of significance:

- an average 15.7% increase in total student enrollment in each academic quarter beginning in 2010 compared to 2009;
- a 5.0% increase in tuition rates in each of March 2010 and March 2009; and
- a 30.3% increase in total student enrollment at December 31, 2009 compared to December 31, 2008.

The primary factors that contributed to the increase in student enrollment included, in order of significance:

- student enrollment growth in programs of study and at locations that were in operation prior to 2009;
- new programs of study offered at our campuses; and
- operating new campuses.

The increase in revenue was partially offset by:

- an increase in the amount of institutional scholarships and other awards that we granted to our students in 2010; and
- the impact of a subordinated note that we issued in connection with the PEAKS Program on the accounting for revenue earned under that program.

Cost of educational services increased $88.0 million, or 19.6%, to $537.9 million in the year ended December 31, 2010 compared to $449.8 million in the year ended December 31, 2009. The primary factors that contributed to this increase included, in order of significance:

- the costs required to service the increased total student enrollment; and
- increased costs associated with operating new campuses.

The increase in cost of educational services was partially offset by greater leverage of our fixed costs in the operation of our campuses.

Cost of educational services as a percentage of revenue decreased 40 basis points to 33.7% in the year ended December 31, 2010 compared to 34.1% in the year ended December 31, 2009. The primary factor that contributed to this decrease was greater leverage of our fixed costs in the operation of our campuses. The decrease in cost of educational services as a percentage of revenue was partially offset by the costs associated with operating new campuses.

Student services and administrative expenses increased $64.6 million, or 17.0%, to $445.1 million in the year ended December 31, 2010 compared to $380.6 million in the year ended December 31, 2009. The principal causes of this increase included, in order of significance:

- an increase in media advertising expenditures;
- an increase in compensation and benefit costs associated with a greater number of employees; and
- an increase in bad debt expense associated with internal student financing.

Student services and administrative expenses decreased to 27.9% of revenue in the year ended December 31, 2010 compared to 28.8% of revenue in the year ended December 31, 2009. The primary causes of this decrease were compensation costs and media advertising costs increasing at a lower rate than the increase in revenue. Bad debt expense as a percentage of revenue decreased to 5.4% in the year ended December 31, 2010 compared to 6.2% in the year ended December 31, 2009, primarily because the amount of internal student financing that we provided to our students increased at a lower rate than the increase in student enrollment due to the private education loan programs available to our students in 2010.

Operating income increased $124.8 million, or 25.5%, to $613.5 million in the year ended December 31, 2010 compared to $488.8 million in the year ended December 31, 2009 as a result of the impact of the factors discussed above in connection with revenue, cost of educational services and student services and administrative expenses. Our operating margin increased to 38.4% in the year ended December 31, 2010 compared to 37.1% in the year ended December 31, 2009, as a result of the impact of the factors discussed above.

Interest income decreased $0.8 million, or 23.9%, to $2.5 million in the year ended December 31, 2010 compared to $3.3 million in the year ended December 31, 2009, primarily due to lower average investment balances and a decrease in investment returns in the overall market. Interest expense increased $1.2 million, or 164.2%, to $1.9 million in the year ended December 31, 2010 compared to $0.7 million in the year ended December 31, 2009, due to an increase in the effective interest rate on our revolving credit facilities.

Our combined federal and state effective income tax rate was 39.1% in the year ended December 31, 2010 compared to 38.9% in the year ended December 31, 2009.

Financial Condition, Liquidity and Capital Resources

Cash and cash equivalents were $229.0 million as of December 31, 2011 compared to $163.8 million as of December 31, 2010. We also had short-term investments of $148.5 million as of December 31, 2011 compared to $149.2 million as of December 31, 2010. In total, our cash and cash equivalents and short-term investments were $377.5 million as of December 31, 2011 compared to $312.9 million as of December 31, 2010. The $64.5 million increase in cash and cash equivalents and short-term investments as of December 31, 2011 compared to December 31, 2010 was primarily due to cash flows from operating activities of $387.8 million which was partially offset by $282.7 million in repurchases of our common stock.

We are required to recognize the funded status of our defined benefit postretirement plans on our balance sheet. We recorded an asset of $4.6 million for the ESI Pension Plan, a non-contributory defined benefit pension plan commonly referred to as a cash balance plan, and a liability of $0.3 million for the ESI Excess Pension Plan, a nonqualified, unfunded retirement plan, on our Consolidated Balance Sheet as of December 31, 2011. In order to determine those amounts, we performed an actuarial valuation of the ESI Pension Plan and ESI Excess Pension Plan (the "Pension Plans"), and reviewed and updated our key assumptions as part of each valuation, including the discount rate and expected long-term rate of return on the investments.

Effective March 31, 2006, the benefit accruals under the Pension Plans were frozen, such that no further benefits accrue under those plans after March 31, 2006. Participants in the Pension Plans, however, continue to be credited with vesting service and interest according to the terms of the Pension Plans. Total net pension benefit in the year ended December 31, 2011 was $0.9 million, compared to total net pension cost of $0.6 million in the year ended December 31, 2010 and $1.7 million in the year ended December 31, 2009. In 2012, we do not expect that our total net pension benefit will be material.

We did not make any contributions to the ESI Excess Pension Plan or to the ESI Pension Plan in 2011 or 2010. We do not expect to make any contributions to either of the Pension Plans in 2012.

See Note 13 of the Notes to Consolidated Financial Statements for a more detailed discussion of the Pension Plans.

Capital Resources. Our cash flows are highly dependent upon the receipt of Title IV Program funds. The primary Title IV Programs from which the students at our campuses receive grants, loans and other aid to fund the cost of their education include:

- the FDL program, which represented, in aggregate, approximately 54% of our cash receipts in 2011 and 30% of our cash receipts in 2010;
- the Pell program, which represented, in aggregate, approximately 21% of our cash receipts in 2011 and 20% of our cash receipts in 2010; and
- the FFEL program, which represented, in aggregate, none of our cash receipts in 2011 and approximately 25% of our cash receipts in 2010.

Effective July 1, 2010, Title IV Program loans are no longer made under the FFEL program. Eligible students at all of our campuses now receive Title IV Program loans under the FDL program.

We also receive funds on behalf of our students from unaffiliated private education loan programs, which represented, in aggregate, approximately 7% of our cash receipts in 2011 and 12% of our cash receipts in 2010. The two private education loan programs that provided the vast majority of private education loans to our students expired in 2011. See "—Off-Balance Sheet Arrangements." We are pursuing arrangements with unaffiliated lenders for them to provide private education loans to our students and their parents who qualify. If we are unable to timely identify lenders to make private education loans to our students and their parents on terms similar to the private education loan programs that expired in 2011, it could have a material adverse effect on our cash flows in 2012 and subsequent periods, and could require us to increase the amount of internal student financing that we provide to our students.

Under a provision of the HEA commonly referred to as the 90/10 Rule, a proprietary institution, such as each of our institutions, must not derive more than 90% of its applicable revenue in a fiscal year, on a cash accounting basis, from Title IV Programs. If an institution exceeds the 90% threshold for any single fiscal year, that institution would be placed on provisional certification status for the institution's following two fiscal years. In addition, if an institution exceeds the 90% threshold for two consecutive fiscal years, it would be ineligible to participate in Title IV Programs as of the first day of the following fiscal year and would be unable to apply to regain its eligibility until the

end of the second subsequent fiscal year. When calculating its compliance with the 90/10 Rule, an institution was permitted, for the period that ended June 30, 2011, to exclude from its revenue derived from Title IV Programs certain additional federal student loan amounts that became available to students starting in July 2008. In our 2011 and 2010 fiscal years, none of our institutions derived more than approximately 69% of its revenue from Title IV Programs under the 90/10 Rule calculation. In the aggregate, we derived approximately 67% of our revenue in 2011 and 59% of our revenue in 2010 from Title IV Programs under the 90/10 Rule calculation. Cash receipts from Title IV Programs as a percentage of our total cash receipts were approximately 75% in 2011 and 2010.

Federal regulations affect the timing of our receipt and disbursements of Title IV Program funds. These regulations require institutions to disburse all Title IV Program funds by payment period. For most of our campuses, the payment period is an academic term. Our campuses generally disburse the first installment of an FDL program loan to a first-year undergraduate student who was a first-time borrower 30 or more days after the student begins his or her program of study. We disburse Title IV Program funds to other students ten days before the start of each academic term.

Operations. Cash from operating activities decreased $170.7 million to $387.8 million in the year ended December 31, 2011 compared to $558.6 million in the year ended December 31, 2010, primarily due to:

- lower student enrollments; and
- a decrease in funds received from private education loans made to our students by third-party lenders.

Accounts receivable less allowance for doubtful accounts was $48.1 million as of December 31, 2011 compared to $68.9 million as of December 31, 2010. Days sales outstanding decreased 3.5 days to 12.0 days at December 31, 2011 compared to 15.5 days at December 31, 2010. Our accounts receivable balance and days sales outstanding at December 31, 2011 decreased primarily due to, in order of significance:

- an increase in the amount of scholarships and other awards provided to our students; and
- use of funds received from private education loan programs available to our students.

The amount of scholarships and other awards provided to our students increased 42.8% to $84.4 million in 2011 compared to $59.1 million in 2010.

In the year ended December 31, 2010, cash from operating activities increased $257.3 million to $558.6 million compared to $301.3 million in the year ended December 31, 2009, primarily due to an increase in funds received from private education loans made to our students by third-party lenders and higher student enrollments. The increase was partially offset by higher income tax payments primarily resulting from higher operating income.

Investing. In the year ended December 31, 2011, we spent $4.1 million to renovate, expand or construct buildings at 14 of our locations compared to $6.1 million to renovate, expand or construct buildings at 18 of our locations in 2010.

In the year ended December 31, 2009, we spent $4.2 million:

- to renovate, expand or construct buildings at 19 of our locations totaling $3.5 million; and
- to purchase a parcel of land for $0.7 million to expand a facility.

Capital expenditures, excluding facility and land purchases and facility construction, totaled $26.9 million in 2011, $26.8 million in 2010 and $24.0 million in 2009. These expenditures consisted primarily of classroom and laboratory equipment (such as computers and electronic equipment), classroom and office furniture, software and leasehold improvements. We also spent $20.8 million in 2009 to acquire substantially all of the assets and assume certain liabilities of Daniel Webster College. These assets included the land, buildings, furniture, equipment and other operating assets of Daniel Webster College.

We plan to continue to upgrade and expand current facilities and equipment during 2012. Cash generated from operations is expected to be sufficient to fund our capital expenditure requirements.

Financing. We are a party to a Second Amended and Restated Credit Agreement dated as of January 11, 2010, as amended (the "Credit Agreement"), which provides that we may borrow up to $150.0 million under two revolving credit facilities:

- one in the maximum principal amount of $100.0 million; and
- the other in the maximum principal amount of $50.0 million.

Borrowings under the Credit Agreement have been and may be used to allow us to continue repurchasing shares of our common stock while maintaining compliance with certain financial ratios required by the ED, SAs and the ACs.

The Credit Agreement was amended as of June 27, 2011 to:

- extend the maturity date of the revolving credit facilities from May 1, 2012 to July 1, 2014;
- decrease the margin applicable to the interest rate that is based on the London Interbank Offered Rate ("LIBOR") and adjusted for any reserve percentage obligations under the Federal Reserve System regulations from 0.475% to 0.425% for secured borrowings and from 2.00% to 1.75% for unsecured borrowings; and
- decrease the facility fee from 0.30% to 0.25% per annum on the daily amount of the commitment (whether used or unused) under the Credit Agreement.

We can borrow under each credit facility on either a secured or unsecured basis at our election, except if an event that would be a default under the Credit Agreement has occurred and is continuing, we may not elect to borrow on an unsecured basis. Cash equivalents and investments held in a pledged account serve as the collateral for any secured borrowings under the Credit Agreement. Secured borrowings may not exceed 95% of the fair market value of the collateral.

The Credit Agreement contains, among other things, covenants, representations and warranties and events of default customary for credit facilities. Our material subsidiaries also guarantee the obligations under the Credit Agreement. Our ability to borrow under the Credit Agreement is subject to our satisfaction of certain specified conditions at the time of borrowing. These conditions include the absence of default by us, as defined in the Credit Agreement, and that the representations and warranties contained in the Credit Agreement and related documents continue to be true and correct. Under the Credit Agreement, we are also required to maintain:

- a certain maximum leverage ratio at the end of each of our fiscal quarters;
- a quarterly minimum ratio of cash and investments to indebtedness; and
- a minimum ED financial responsibility composite ratio as of the end of each fiscal year.

We were in compliance with those requirements as of December 31, 2011.

Borrowings under the Credit Agreement bear interest, at our option, at the LIBOR plus an applicable margin or at an alternative base rate, as defined under the Credit Agreement. As of December 31, 2011, we pay a facility fee equal to 0.25% per annum on the daily amount of the commitment (whether used or unused) under the Credit Agreement. As of December 31, 2011, the borrowings under the Credit Agreement were $150.0 million, all of which were secured, and bore interest at a rate of 0.74% per annum. Approximately $158.0 million of our investments and cash equivalents served as collateral for the secured borrowings as of December 31, 2011.

Our Board of Directors has authorized us to repurchase shares of our common stock in the open market or through privately negotiated transactions in accordance with Rule 10b-18 of the Exchange Act. Approximately 5.8 million shares remained available for repurchase under the Repurchase Program as of December 31, 2011. Pursuant to the Board's stock repurchase authorization, we plan to repurchase additional shares of our common stock from time to time in the future depending on market conditions and other considerations.

The following table sets forth our share repurchase activity in the periods indicated:

	Year Ended December 31,		
	2011	2010	2009
Repurchase authorization at beginning of period	4,836,725	494,225	3,972,100
Additional repurchase authorization	5,000,000	10,000,000	0
Number of shares repurchased	(4,040,000)	(5,657,500)	(3,477,875)
Repurchase authorization at end of period	5,796,725	4,836,725	494,225
Total cost of shares repurchased (in millions)	$ 282.7	$ 434.7	$ 348.1
Average cost per share	$ 69.98	$ 76.83	$ 100.10

Proceeds from the exercise of stock options were $5.6 million in the year ended December 31, 2011 compared to $7.9 million in the year ended December 31, 2010 and $8.8 million in the year ended December 31, 2009. Excess tax benefits from the exercise of stock options were $1.2 million in the year ended December 31, 2011 compared to $3.4 million in the year ended December 31, 2010 and $5.3 million in the year ended December 31, 2009.

We believe that cash generated from operations and our investments will be adequate to satisfy our working capital, loan repayment and capital expenditure requirements for the foreseeable future. We also believe that any reduction in cash and cash equivalents or investments that may result from their use to provide student financing, purchase facilities, construct facilities, repay loans or repurchase shares of our common stock will not have a material adverse effect on our expansion plans, planned capital expenditures, ability to meet any applicable regulatory financial responsibility standards or ability to conduct normal operations.

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Contractual Obligations

The following table sets forth the specified contractual obligations as of December 31, 2011:

		Payments Due by Period			
Contractual Obligations	Total	Less than 1 Year	1-3 Years	3-5 Years	More than 5 Years
			(In thousands)		
Operating lease obligations	$ 179,740	$ 49,715	$ 82,227	$ 38,543	$ 9,255
Long-term debt, including scheduled interest payments	$ 153,752	$ 1,506	$ 152,246	$ 0	$ 0
Total	$ 333,492	$ 51,221	$ 234,473	$ 38,543	$ 9,255

The long-term debt represents our revolving credit facilities and assumes that the $150.0 million outstanding balance under the Credit Agreement as of December 31, 2011 will be outstanding at all times through the date of maturity. The amounts shown include the principal payments that will be due upon maturity as well as interest payments and facility fees. Interest payments have been calculated based on their scheduled payment dates using the interest rate charged on our borrowings as of December 31, 2011.

Off-Balance Sheet Arrangements

As of December 31, 2011, we leased our non-owned facilities under operating lease agreements. A majority of the operating leases contain renewal options that can be exercised after the initial lease term. Renewal options are generally for periods of one to five years. All operating leases will expire over the next 12 years and management believes that:

- those leases will be renewed or replaced by other leases in the normal course of business;
- we may purchase the facilities represented by those leases; or
- we may purchase or build other replacement facilities.

There are no material restrictions imposed by the lease agreements, and we have not entered into any significant guarantees related to the leases. We are required to make additional payments under the terms of certain operating leases for taxes, insurance and other operating expenses incurred during the operating lease period.

As part of our normal course of operations, one of our insurers issues surety bonds for us that are required by various education authorities that regulate us. We are obligated to reimburse our insurer for any of those surety bonds that are paid by the insurer. As of December 31, 2011, the total face amount of those surety bonds was approximately $33.7 million.

On January 20, 2010, we entered into agreements with unrelated parties to establish the PEAKS Program. Under the PEAKS Program, an unaffiliated lender originated private education loans to our eligible students and, subsequently, sells those loans to an unaffiliated trust that purchases, owns and collects private education loans (the "PEAKS Trust"). The PEAKS Trust issued senior debt in the aggregate principal amount of $300.0 million (the "PEAKS Senior Debt") to investors. The assets of the PEAKS Trust (which include, among other assets, the student loans held by the PEAKS Trust) serve as collateral for, and are intended to be the principal source of, the repayment of the PEAKS Senior Debt. The PEAKS Trust is required to maintain assets having an aggregate value that exceeds the outstanding balance of the PEAKS Senior Debt. As of December 31, 2011, the value of the assets of the PEAKS Trust satisfied this requirement. The PEAKS Senior Debt bears interest at a variable rate based on the LIBOR plus a margin and matures in January 2020.

In connection with the PEAKS Program, the lender disburses the proceeds of the private education loans to us for application to the students' account balances with us that represent their unpaid education costs. We transfer to the PEAKS Trust a portion of the amount of each private student loan disbursed to us under the PEAKS Program in exchange for a subordinated note issued by the PEAKS Trust ("Subordinated Note"). The Subordinated Note does not bear interest, and principal is due on the Subordinated Note following the repayment of the PEAKS Senior Debt, the payment of fees and expenses of the PEAKS Trust and the reimbursement of the amount of any payments made by us under the PEAKS Guarantee (as defined below). The PEAKS Trust utilizes the proceeds from the issuance of the PEAKS Senior Debt and the Subordinated Note to purchase the student loans from the lender.

We guarantee payment of the principal, interest and certain call premiums owed on the PEAKS Senior Debt, and the administrative fees and expenses of the PEAKS Trust (the "PEAKS Guarantee"). The PEAKS Guarantee contains, among other things, representations and warranties and events of default customary for guarantees. In addition, under the PEAKS Program, some or all of the holders of the PEAKS Senior Debt could require us to purchase their PEAKS Senior Debt in certain limited circumstances that pertain to our continued eligibility to participate in the Title IV Programs. We believe that the likelihood of those limited circumstances occurring is remote. Our guarantee and purchase obligations under the PEAKS Program remain in effect until the PEAKS Senior Debt and the PEAKS Trust's fees and expenses are paid in full. At such time, we will be entitled to repayment of the amount of any payments made under our guarantee and payment of the Subordinated Note, in each case only to the extent of available funds remaining in the PEAKS Trust.

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We entered into the PEAKS Program to offer our students another source of private education loans that they could use to help pay their education costs owed to us and to supplement the limited amount of private education loans available to our students under other private education loan programs, including the 2009 Loan Program (as defined below). Under the PEAKS Program, our students had access to a greater amount of private education loans, which resulted in a reduction in the amount of internal financing that we provided to our students. No new private education loans were or will be originated under the PEAKS Program after July 2011, but immaterial amounts related to loans originated prior to that date will be disbursed by the lender and purchased by the PEAKS Trust through approximately March 2012.

On February 20, 2009, we entered into agreements with an unaffiliated entity (the "2009 Entity") to create a program that made private education loans available to our students to help pay the students' cost of education that student financial aid from federal, state and other sources did not cover (the "2009 Loan Program"). In connection with the 2009 Loan Program, we entered into a risk sharing agreement (the "2009 RSA") with the 2009 Entity. Under the 2009 RSA, we guarantee the repayment of the principal amount (including capitalized origination fees) and accrued interest payable on any private education loans that are charged off above a certain percentage of the private education loans made under the 2009 Loan Program, based on the annual dollar volume. The total initial principal amount of private education loans that the 2009 Entity purchased under the 2009 Loan Program was approximately $141.0 million. No new private education loans were or will be originated under the 2009 Loan Program after December 31, 2011, but immaterial amounts related to loans originated prior to that date will be disbursed by the lender and purchased by the 2009 Entity through approximately June 2012. Our obligations under the 2009 RSA will remain in effect until all private education loans made under the 2009 Loan Program are paid in full or charged off. The standard repayment term for a private education loan made under the 2009 Loan Program is ten years, with repayment generally beginning six months after a student graduates or three months after a student withdraws or is terminated from his or her program of study.

Pursuant to the 2009 RSA, we are required to maintain collateral to secure our guarantee obligation in an amount equal to a percentage of the outstanding balance of the private education loans disbursed to our students under the 2009 Loan Program. As of December 31, 2011, the total collateral maintained in a restricted bank account was not material. The 2009 RSA also requires that we comply with certain covenants, including that we maintain certain financial ratios which are measured on a quarterly basis. We were in compliance with these covenants as of December 31, 2011.

In addition, beginning in the second fiscal quarter of 2009 we have made advances to the 2009 Entity under a revolving promissory note (the "Revolving Note"). We made the advances, which bear interest, so that the 2009 Entity could use those funds primarily to provide additional funding for the private education loans, instead of retaining the funds ourselves and providing internal student financing, which is non-interest bearing. The Revolving Note bears interest at a rate based on the prime rate plus an applicable margin. Substantially all of the assets of the 2009 Entity serve as collateral for the Revolving Note. The Revolving Note is subject to customary terms and conditions and may be repaid at any time without penalty prior to its 2026 maturity date.

We also are a party to a separate risk sharing agreement (the "2007 RSA" and, collectively with the PEAKS Guarantee and the 2009 RSA, the "RSAs") with a different lender for certain private education loans that were made to our students in 2007 and early 2008. We guarantee the repayment of any private education loans that the lender charges off above a certain percentage of the total dollar volume of private education loans made under the 2007 RSA. We will have the right to pursue repayment from the borrowers for those charged off private education loans under the 2007 RSA that we pay to the lender pursuant to our guarantee obligation. The 2007 RSA was terminated effective February 22, 2008, such that no private education loans have been or will be made under the 2007 RSA after that date. Based on information that we have received to date from the lender, we believe that the total original principal amount of private education loans made under the 2007 RSA, net of amounts refunded under those loans, was approximately $180.0 million. Our obligations under the 2007 RSA remain in effect until all private education loans under the 2007 RSA are paid in full or charged off by the lender. The standard repayment term for a private education loan made under the 2007 RSA is ten years, with repayment generally beginning six months after a student graduates, withdraws or is terminated from his or her program of study.

As of December 31, 2011, we had made guarantee payments that were not material under the RSAs. See Notes 11 and 14 of the Notes to Consolidated Financial Statements for further discussion of the RSAs.

At the end of each reporting period, we assess whether we should recognize a contingent liability related to the various claims and contingencies that we are subject to, including those related to litigation, business transactions, guarantee arrangements and employee-related matters, among others. We record a liability for those claims and

contingencies, if it is probable that a loss will result and the amount of the loss can be reasonably estimated. Although we believe that our estimates related to any claims and contingencies are reasonable, we cannot make any assurances with regard to the accuracy of our estimates, and actual results could differ materially. As of December 31, 2011, our recorded liability for these claims and contingencies was approximately $36.0 million and is primarily included in Other liabilities on our Consolidated Balance Sheet. The substantial majority of this amount pertains to our guarantee arrangements under the RSAs.

Item 7A. Quantitative and Qualitative Disclosures About Market Risk.

In the normal course of our business, we are subject to fluctuations in interest rates that could impact the return on our investments and the cost of our financing activities. Our primary interest rate risk exposure results from changes in short-term interest rates and the LIBOR.

Our investments consist primarily of government and government agency obligations and marketable debt securities. We estimate that the market risk associated with these investments can best be measured by a potential decrease in the fair value of these investments from a hypothetical 10% increase in interest rates. If such a hypothetical increase in rates were to occur, the reduction in the market value of our portfolio of marketable securities would not be material.

Changes in the LIBOR would affect the borrowing costs associated with our revolving credit facilities. We estimate that the market risk can best be measured by a hypothetical 100 basis point increase in the LIBOR. If such a hypothetical increase in the LIBOR were to occur, the effect on results from operations and cash flow would not have been material for the year ended December 31, 2011.

Item 8. Financial Statements and Supplementary Data.

The information required by this Item appears on pages F-1 through F-29 of this Annual Report.

Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure.

Not applicable.

Item 9A. Controls and Procedures.

Disclosure Controls and Procedures

We are responsible for establishing and maintaining disclosure controls and procedures ("DCP") that are designed to ensure that information required to be disclosed by us in the reports filed or submitted by us under the Exchange Act is: (a) recorded, processed, summarized and reported within the time periods specified in the SEC's rules and forms; and (b) accumulated and communicated to our management, including our principal executive and principal financial officers, to allow timely decisions regarding required disclosures. In designing and evaluating our DCP, we recognize that any controls and procedures, no matter how well designed and implemented, can provide only reasonable assurance of achieving the desired control objectives, and that our management's duties require it to make its best judgment regarding the design of our DCP. As of December 31, 2011, we conducted an evaluation, under the supervision (and with the participation) of our management, including our Chief Executive Officer and Chief Financial Officer, of the effectiveness of the design and operation of our DCP pursuant to Rule 13a-15 of the Exchange Act. Based on that evaluation, our Chief Executive Officer and Chief Financial Officer concluded that our DCP were effective at the reasonable assurance level as of December 31, 2011.

Internal Control Over Financial Reporting

Management's Annual Report on Internal Control over Financial Reporting. Our management's report on internal control over financial reporting appears on page F-1 of this Annual Report and is incorporated herein by reference.

The effectiveness of our internal control over our financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act ("ICFR"), as of December 31, 2011 has been audited by PricewaterhouseCoopers LLP, our independent registered public accounting firm, as stated in its report dated February 23, 2012, which appears on page F-2 of this Annual Report and is incorporated herein by reference.

Changes in Internal Control over Financial Reporting. There were no changes in our ICFR that occurred during our most recently completed fiscal quarter that have materially affected, or are reasonably likely to materially affect, our ICFR.

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Item 9B. Other Information.

Not applicable.

PART III

Item 10. Directors, Executive Officers and Corporate Governance.

The information required by this Item concerning our audit committee members and financial expert, code of ethics and disclosure of delinquent Section 16 filers is incorporated herein by reference to our definitive Proxy Statement for our 2012 Annual Meeting of Shareholders, which will be filed with the SEC pursuant to Regulation 14A within 120 days after the end of our last fiscal year.

The following is the current biographical information with respect to our directors, our nominees for director and our executive officers. Unless otherwise specified, the occupation of each individual has been the same for the past five years.

Kevin M. Modany, age 45, has served as our Chairman since February 2008 and as our Chief Executive Officer since April 2007. He also served as our President from April 2005 through March 2009. From April 2005 through March 2007, Mr. Modany also served as our Chief Operating Officer. Mr. Modany has been a Director of ours since July 2006.

John F. Cozzi, age 50, has served as managing director of AEA Investors LP, a private equity firm, since January 2004. Mr. Cozzi has been a Director of ours since October 2003.

John E. Dean, age 61, is an attorney who has specialized in higher education law since April 1985. Mr. Dean has been a partner at the Law Offices of John E. Dean since June 2005. Mr. Dean has also served as a principal of Washington Partners, LLC, a public affairs firm, since June 2002. Mr. Dean has been a Director of ours since December 1994.

James D. Fowler, Jr., age 67, served as senior vice president and director, human resources of ITT Industries, Inc., an industrial, commercial machinery and equipment company, from November 2000 until his retirement in October 2002. Mr. Fowler has been a Director of ours since April 1994.

Joanna T. Lau, age 53, has served as chairperson and chief executive officer of Lau Acquisition Corporation (doing business as LAU Technologies), a management consulting and investment firm, since March 1990. She is also a director of DSW Inc. During the past five years, Ms. Lau was also a director of TD Banknorth, Inc. Ms. Lau has been a Director of ours since October 2003.

Samuel L. Odle, age 62, has served as president and chief executive officer of Methodist Hospital ("MH") and Indiana University Hospital ("IUH") and executive vice president of Indiana University Health (formerly Clarian Health Partners), an Indianapolis-based private, non-profit healthcare organization comprised of MH, IUH and Riley Hospital for Children, since July 2004. Mr. Odle has been a Director of ours since January 2006.

Lloyd G. Waterhouse, age 60, served as chief executive officer and president of Harcourt Education, a global education company serving students and teachers, adult learners and readers, from September 2006 until his retirement in January 2008. Mr. Waterhouse is also a director of SolarWinds, Inc. During the past five years, he was also a director of Digimarc Corporation, i2 Technologies, Inc. and Atlantic Mutual Insurance Companies. Mr. Waterhouse has been a director of ours since April 2009.

Vin Weber, age 59, has served as co-chairman and partner of Mercury Public Affairs LLC (doing business as Mercury/Clark & Weinstock), a public affairs and lobbying firm, since October 2011. Mr. Weber was a partner at Clark & Weinstock Inc. ("C&W") from 1994 until October 2011 and was the chief executive officer of C&W from 2007 until October 2011. During the past five years, he was also a director of Lenox Group, Inc. Mr. Weber has been a Director of ours since December 1994.

John A. Yena, age 71, has served as chairman of the board, emeritus of Johnson & Wales University ("J&W"), a postsecondary educational institution, since November 2011. Mr. Yena served as chairman of the board of J&W from June 2004 until November 2011. During the past five years, he was also a director of Bancorp Rhode Island, Inc. Mr. Yena has been a Director of ours since May 2006.

Clark D. Elwood, age 51, has served as an Executive Vice President and our Chief Administrative Officer since April 2009 and as our Chief Legal Officer since April 2010. He served as a Senior Vice President of ours from December 1996 through March 2009, as our Secretary from October 1992 through March 2010, and as our General Counsel from May 1991 through March 2010.

Eugene W. Feichtner, age 56, has served as an Executive Vice President and as President, ITT Technical Institute Division since April 2009. He served as our Senior Vice President, Operations from March 2004 through March 2009.

Daniel M. Fitzpatrick, age 52, has served as our Executive Vice President, Chief Financial Officer since April 2009. He served as our Senior Vice President, Chief Financial Officer from June 2005 through March 2009.

June M. McCormack, age 63, has served as an Executive Vice President since April 2009 and as our President, Online Division since May 2008. Ms. McCormack served as executive vice president, servicing, information technology and sales marketing of SLM Corporation from October 2005 through December 2007.

Glenn E. Tanner, age 64, has served as our Executive Vice President, Chief Marketing Officer since April 2009. He served as our Senior Vice President, Marketing from April 2007 through March 2009. From October 2002 through March 2007, Mr. Tanner served as our Vice President, Marketing.

Martin Van Buren, age 44, has served as our Executive Vice President, Chief Information Officer since April 2009. He served as our Senior Vice President, Chief Information Officer from April 2008 through March 2009. From January 2004 through March 2008, he served as our Vice President, Information Technology.

Item 11. Executive Compensation.

The information required by this Item concerning remuneration of our executive officers and directors, material transactions involving such executive officers and directors and Compensation Committee interlocks, as well as the Compensation Committee Report, are incorporated herein by reference to our definitive Proxy Statement for our 2012 Annual Meeting of Shareholders which will be filed with the SEC pursuant to Regulation 14A within 120 days after the end of our last fiscal year.

Item 12. Security Ownership of Certain Beneficial Owners and Management and Related Stockholder Matters.

The information required by this Item concerning the stock ownership of management, five percent beneficial owners and securities authorized for issuance under equity compensation plans is incorporated herein by reference to our definitive Proxy Statement for our 2012 Annual Meeting of Shareholders which will be filed with the SEC pursuant to Regulation 14A within 120 days after the end of our last fiscal year.

Item 13. Certain Relationships and Related Transactions, and Director Independence.

The information required by this Item concerning certain relationships and related person transactions, and director independence is incorporated herein by reference to our definitive Proxy Statement for our 2012 Annual Meeting of Shareholders which will be filed with the SEC pursuant to Regulation 14A within 120 days after the end of our last fiscal year.

Item 14. Principal Accountant Fees and Services.

The information required by this Item concerning the fees and services of our independent registered public accounting firm and our Audit Committee actions with respect thereto is incorporated herein by reference to our definitive Proxy Statement for our 2012 Annual Meeting of Shareholders which will be filed with the SEC pursuant to Regulation 14A within 120 days after the end of our last fiscal year.

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PART IV

Item 15. Exhibits and Financial Statement Schedules.

1. Financial Statements:

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Management's Report on Internal Control Over Financial Reporting	F-1
Report of Independent Registered Public Accounting Firm	F-2
Consolidated Balance Sheets as of December 31, 2011 and 2010	F-3
Consolidated Statements of Income for the years ended December 31, 2011, 2010 and 2009	F-4
Consolidated Statements of Cash Flows for the years ended December 31, 2011, 2010 and 2009	F-5
Consolidated Statements of Shareholders' Equity for the years ended December 31, 2011, 2010 and 2009	F-6
Notes to Consolidated Financial Statements	F-7

2. Financial Statement Schedules:

   Schedule II – Valuation and Qualifying Accounts of the Company for the years ended December 31, 2011, 2010 and 2009 appear on page F-28 of this Annual Report.

3. Quarterly Financial Results for 2011 and 2010 (unaudited) appear on page F-29 of this Annual Report.

4. Exhibits:

   A list of exhibits required to be filed as part of this report is set forth in the Index to Exhibits appearing on pages S-2 through S-5 of this Annual Report, which immediately precedes such exhibits, and is incorporated herein by reference.

Management's Report on Internal Control Over Financial Reporting

We are responsible for establishing and maintaining adequate internal control over our financial reporting, as defined in Rules 13a-15(f) and 15d-15(f) of the Exchange Act ("ICFR"). Our ICFR is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles and includes those policies and procedures that:

- pertain to the maintenance of our records that in reasonable detail accurately and fairly reflect our transactions and asset dispositions;
- provide reasonable assurance that our transactions are recorded as necessary to permit the preparation of our financial statements in accordance with generally accepted accounting principles;
- provide reasonable assurance that our receipts and expenditures are being made only in accordance with authorizations of our management and Board of Directors (as appropriate); and
- provide reasonable assurance regarding the prevention or timely detection of any unauthorized acquisition, use or disposition of our assets that could have a material effect on our financial statements.

Reasonable assurance, as defined in Section 13(b)(7) of the Exchange Act, is the level of detail and degree of assurance that would satisfy prudent officials in the conduct of their own affairs in devising and maintaining a system of internal accounting controls.

Due to its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. In addition, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Under the supervision and with the participation of our management, including our principal executive officer and principal financial officer, we assessed the effectiveness of our ICFR as of December 31, 2011. Our assessment included extensive documenting, evaluating and testing of the design and operating effectiveness of our ICFR. In making this assessment, our management used the criteria for *Internal Control-Integrated Framework* set forth by The Committee of Sponsoring Organizations of the Treadway Commission. These criteria are in the areas of control environment, risk assessment, control activities, information and communication, and monitoring. Based on our assessment using these criteria, our management concluded that we maintained effective ICFR as of December 31, 2011.

The effectiveness of our ICFR as of December 31, 2011 has been audited by PricewaterhouseCoopers LLP, our independent registered public accounting firm, as stated in its accompanying report.

Report of Independent Registered Public Accounting Firm

To the Board of Directors and Shareholders of
ITT Educational Services, Inc.:

In our opinion, the consolidated financial statements listed in the index appearing under Item 15.1 present fairly, in all material respects, the financial position of ITT Educational Services, Inc. and its subsidiaries (the "Company") at December 31, 2011 and 2010, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2011 in conformity with accounting principles generally accepted in the United States of America. In addition, in our opinion, the financial statement schedule listed in the index appearing under Item 15.2 presents fairly, in all material respects, the information set forth therein when read in conjunction with the related consolidated financial statements. Also in our opinion, the Company maintained, in all material respects, effective internal control over financial reporting as of December 31, 2011, based on criteria established in *Internal Control – Integrated Framework* issued by the Committee of Sponsoring Organizations of the Treadway Commission (COSO). The Company's management is responsible for these financial statements and financial statement schedule, for maintaining effective internal control over financial reporting and for its assessment of the effectiveness of internal control over financial reporting, included in Management's Report on Internal Control Over Financial Reporting appearing on page F-1. Our responsibility is to express opinions on these financial statements, on the financial statement schedule, and on the Company's internal control over financial reporting based on our integrated audits. We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audits to obtain reasonable assurance about whether the financial statements are free of material misstatement and whether effective internal control over financial reporting was maintained in all material respects. Our audits of the financial statements included examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. Our audit of internal control over financial reporting included obtaining an understanding of internal control over financial reporting, assessing the risk that a material weakness exists, and testing and evaluating the design and operating effectiveness of internal control based on the assessed risk. Our audits also included performing such other procedures as we considered necessary in the circumstances. We believe that our audits provide a reasonable basis for our opinions.

A company's internal control over financial reporting is a process designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles. A company's internal control over financial reporting includes those policies and procedures that (i) pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of the assets of the company; (ii) provide reasonable assurance that transactions are recorded as necessary to permit preparation of financial statements in accordance with generally accepted accounting principles, and that receipts and expenditures of the company are being made only in accordance with authorizations of management and directors of the company; and (iii) provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use, or disposition of the company's assets that could have a material effect on the financial statements.

Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

/s/ PricewaterhouseCoopers LLP
Indianapolis, Indiana
February 23, 2012

ITT EDUCATIONAL SERVICES, INC.
CONSOLIDATED BALANCE SHEETS
(Dollars in thousands, except per share data)

	As of December 31,	
	2011	**2010**
Assets		
Current assets:		
Cash and cash equivalents	$ 228,993	$ 163,779
Short-term investments	148,488	149,160
Restricted cash	2,128	255
Accounts receivable, less allowance for doubtful accounts of $9,175 and $7,526	48,106	68,937
Deferred income taxes	9,759	9,079
Prepaid expenses and other current assets	18,814	22,887
Total current assets	456,288	414,097
Property and equipment, net	201,257	198,213
Deferred income taxes	33,267	21,814
Other assets	38,006	40,656
Total assets	$ 728,818	$ 674,780
Liabilities and Shareholders' Equity		
Current liabilities:		
Accounts payable	$ 78,876	$ 67,920
Accrued compensation and benefits	21,438	28,428
Other current liabilities	18,190	15,441
Deferred revenue	226,543	244,362
Total current liabilities	345,047	356,151
Long-term debt	150,000	150,000
Other liabilities	64,972	40,559
Total liabilities	560,019	546,710
Commitments and contingent liabilities (Note 14)		
Shareholders' equity:		
Preferred stock, $.01 par value, 5,000,000 shares authorized, none issued	0	0
Common stock, $.01 par value, 300,000,000 shares authorized, 37,068,904 issued	371	371
Capital surplus	189,573	173,935
Retained earnings	827,675	524,678
Accumulated other comprehensive (loss)	(9,479)	(4,509)
Treasury stock, 10,969,425 and 7,075,563 shares, at cost	(839,341)	(566,405)
Total shareholders' equity	168,799	128,070
Total liabilities and shareholders' equity	$ 728,818	$ 674,780

The accompanying notes are an integral part of the consolidated financial statements.

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ITT EDUCATIONAL SERVICES, INC.
CONSOLIDATED STATEMENTS OF INCOME
(Amounts in thousands, except per share data)

	Year Ended December 31,		
	2011	2010	2009
Revenue	$ 1,499,949	$ 1,596,529	$ 1,319,194
Costs and expenses:			
Cost of educational services	553,065	537,855	449,835
Student services and administrative expenses	439,808	445,125	380,567
Total costs and expenses	992,873	982,980	830,402
Operating income	507,076	613,549	488,792
Interest income	2,902	2,504	3,291
Interest (expense)	(1,825)	(1,918)	(726)
Income before provision for income taxes	508,153	614,135	491,357
Provision for income taxes	200,401	239,969	191,094
Net income	$ 307,752	$ 374,166	$ 300,263
Earnings per share:			
Basic	$ 11.22	$ 11.28	$ 8.01
Diluted	$ 11.13	$ 11.17	$ 7.91
Weighted average shares outstanding:			
Basic	27,429	33,165	37,490
Diluted	27,655	33,501	37,942

The accompanying notes are an integral part of the consolidated financial statements.

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ITT EDUCATIONAL SERVICES, INC.
CONSOLIDATED STATEMENTS OF CASH FLOWS
(Dollars in thousands)

	Year Ended December 31,		
	2011	2010	2009
Cash flows from operating activities:			
Net income	$ 307,752	$ 374,166	$ 300,263
Adjustments to reconcile net income to net cash flows from operating activities:			
Depreciation and amortization	27,886	26,797	24,908
Provision for doubtful accounts	61,308	86,935	81,983
Deferred income taxes	(8,991)	(14,557)	(3,066)
Excess tax benefit from stock option exercises	(1,166)	(3,383)	(5,289)
Stock-based compensation expense	17,074	15,813	13,074
Other	(1,936)	468	(1,163)
Changes in operating assets and liabilities, net of acquisition:			
Restricted cash	(1,873)	1,636	5,775
Accounts receivable	(40,477)	(70,446)	(136,837)
Accounts payable	10,956	6,645	4,911
Other operating assets and liabilities	35,118	62,057	6,344
Deferred revenue	(17,819)	72,429	10,355
Net cash flows from operating activities	387,832	558,560	301,258
Cash flows from investing activities:			
Facility expenditures and land purchases	(4,053)	(6,118)	(4,236)
Capital expenditures, net	(26,847)	(26,811)	(23,992)
Acquisition of college, net of cash acquired	0	0	(20,792)
Proceeds from sales and maturities of investments and repayment of notes	337,032	385,306	247,701
Purchase of investments and note advances	(352,195)	(451,594)	(263,012)
Net cash flows from investing activities	(46,063)	(99,217)	(64,331)
Cash flows from financing activities:			
Excess tax benefit from stock option exercises	1,166	3,383	5,289
Proceeds from exercise of stock options	5,599	7,893	8,800
Repurchase of common stock and shares tendered for taxes	(283,320)	(435,628)	(348,483)
Net cash flows from financing activities	(276,555)	(424,352)	(334,394)
Net change in cash and cash equivalents	65,214	34,991	(97,467)
Cash and cash equivalents at beginning of period	163,779	128,788	226,255
Cash and cash equivalents at end of period	$ 228,993	$ 163,779	$ 128,788
Supplemental disclosures of cash flow information:			
Cash paid during the period for:			
Income taxes (net of refunds)	$ 196,387	$ 259,788	$ 190,718
Interest	$ 1,842	$ 1,914	$ 824
Non-cash financing activities:			
Issuance of treasury stock for Directors' compensation	$ 30	$ 30	$ 30

The accompanying notes are an integral part of the consolidated financial statements.

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ITT EDUCATIONAL SERVICES, INC.
CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
(Dollars and shares in thousands)

	Common Stock		Capital	Retained	Accumulated Other Comprehensive	Common Stock in Treasury		
	Shares	Amount	Surplus	Earnings	Income (Loss)	Shares	Amount	Total
Balance as of December 31, 2008	54,069	$ 541	$ 135,655	$ 718,100	($ 13,384)	(15,352)	($ 667,068)	$ 173,844
Net income				300,263				300,263
Other comprehensive income:								
Prior service costs, net of $11 of income tax					17			17
Net actuarial pension loss, net of $2,386 of income tax					3,697			3,697
Pension settlement loss, net of $18 of income tax					28			28
Unrealized (loss)					(451)			(451)
Comprehensive income								303,554
Exercise of stock options and equity awards				(11,462)		210	20,262	8,800
Tax benefit from exercise of stock options and equity award vesting			5,766					5,766
Stock-based compensation			13,074					13,074
Common shares repurchased						(3,478)	(348,123)	(348,123)
Issuance of shares for Directors' compensation				2		1	28	30
Shared tendered for taxes						(4)	(360)	(360)
Balance as of December 31, 2009	54,069	541	154,495	1,006,903	(10,093)	(18,623)	(995,261)	156,585
Net income				374,166				374,166
Other comprehensive income:								
Prior service costs, net of $4,058 of income tax					6,340			6,340
Net actuarial pension loss, net of $551 of income tax					(860)			(860)
Unrealized gain					104			104
Comprehensive income								379,750
Exercise of stock options and equity awards				(13,631)		214	21,524	7,893
Tax benefit from exercise of stock options and equity award vesting			3,627					3,627
Stock-based compensation			15,813					15,813
Common shares repurchased						(5,658)	(434,656)	(434,656)
Issuance of shares for Directors' compensation				1		1	29	30
Shares tendered for taxes						(10)	(972)	(972)
Common shares retired	(17,000)	(170)		(842,761)		17,000	842,931	0
Balance as of December 31, 2010	37,069	371	173,935	524,678	(4,509)	(7,076)	(566,405)	128,070
Net income				307,752				307,752
Other comprehensive income:								
Prior service costs, net of $607 of income tax					(948)			(948)
Net actuarial pension loss, net of $3,005 of income tax					(4,696)			(4,696)
Pension settlement loss, net of $470 of income tax					734			734
Unrealized (loss)					(60)			(60)
Comprehensive income								302,782
Exercise of stock options and equity awards				(4,756)		155	10,355	5,599
Tax benefit from exercise of stock options and equity award vesting			1,190					1,190
Stock-based compensation			14,448					14,448
Common shares repurchased						(4,040)	(282,701)	(282,701)
Issuance of shares for Directors' compensation				1		1	29	30
Shares tendered for taxes						(9)	(619)	(619)
Balance as of December 31, 2011	37,069	$ 371	$ 189,573	$ 827,675	($ 9,479)	(10,969)	($ 839,341)	$ 168,799

The accompanying notes are an integral part of the consolidated financial statements.

ITT EDUCATIONAL SERVICES, INC.
NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(Dollars in thousands, except per share data and unless otherwise stated)

1. Business and Significant Accounting Policies

Business. We are a leading proprietary provider of postsecondary education in the United States based on revenue and student enrollment. As of December 31, 2011, we were offering master, bachelor and associate degree programs to approximately 73,000 students and had 144 locations (including 141 campuses and three learning sites) in 39 states. In addition, we offered one or more of our online programs to students who are located in 48 states. We have provided career-oriented education programs since 1969 under the "ITT Technical Institute" name and since June 2009 under the "Daniel Webster College" ("DWC") name. Our corporate headquarters are located in Carmel, Indiana.

Basis of Presentation. The consolidated financial statements include our wholly-owned subsidiaries' accounts and have been prepared in accordance with generally accepted accounting principles in the United States of America ("GAAP") and pursuant to the rules and regulations of the U.S. Securities and Exchange Commission ("SEC"). All significant intercompany balances and transactions are eliminated upon consolidation. Arrangements where we may have a variable interest in another party are evaluated in accordance with the provisions of Financial Accounting Standards Board ("FASB") Accounting Standards Codification ™ ("ASC" or "Codification") 810, "Consolidation" ("ASC 810"), to determine whether we would be required to include the financial results of the other party in our consolidated financial statements. As of December 31, 2011, we were not required to include the financial results of any variable interest entity in our consolidated financial statements. Certain reclassifications may have been made in the consolidated financial statements of prior years to conform to the current year presentation. These reclassifications would have no impact on previously reported net income, total shareholders' equity or cash flows.

Use of Estimates. The preparation of these consolidated financial statements, in accordance with GAAP, includes estimates and assumptions that are determined by our management. Actual results could differ materially from the estimates. Significant accounting estimates and assumptions are used for, but not limited to:

- the allowance for doubtful accounts;
- useful lives of tangible and intangible assets;
- self insurance;
- pension liabilities;
- stock-based compensation;
- guarantees;
- unrecognized tax benefits; and
- litigation exposures.

Cash Equivalents. Highly liquid investments purchased with an original maturity of three months or less are considered cash equivalents.

Restricted Cash. The funds from the federal student financial aid programs under Title IV ("Title IV Programs") of the Higher Education Act of 1965, as amended ("HEA"), and certain other monies transferred to us by electronic funds transfer, are subject to holding restrictions before they can be drawn into our cash account. The funds subject to these holding periods are identified as restricted cash until they are applied to the students' accounts. We also maintain an escrow account for a guarantee obligation to an unaffiliated third party under a private education loan program for our students. The funds in this escrow account are considered restricted cash and classified as other assets. The balance in this escrow account as of December 31, 2011 and December 31, 2010 was not material.

Investments. We classify our investments in marketable securities as available-for-sale or held-to-maturity depending on our investment intentions with regard to those securities on the date of acquisition. Investments classified as available-for-sale are recorded at their market value. Investments are classified as either current or non-current based on the maturity date of each security.

The cost of securities sold is based on the specific identification method.

Accounts Receivable and Allowance for Doubtful Accounts. We extend unsecured credit to our students for tuition and fees and we record a receivable for the tuition and fees earned in excess of the payment received from or on behalf of a student. The individual student balances of these receivables are insignificant. We record an allowance for doubtful accounts with respect to accounts receivable based on the students' credit profiles and our historical collection experience related to amounts owed by our students with similar credit profiles. If our collection trends were to differ significantly from our historical collection experience, we would make a corresponding adjustment to our allowance for doubtful accounts.

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When a student is no longer enrolled in a program of study at one of our campuses, we increase the allowance for doubtful accounts related to the former student's receivable balance to reflect the amount we estimate will not be collected. The amount that we estimate will not be collected is based on a review of the historical collection experience for each campus, adjusted as needed to reflect other facts and circumstances. We review the collection activity after a student withdraws or graduates from a campus and will write off the accounts receivable, if we conclude that collection of the balance is not probable.

Property and Equipment. Property and equipment is recorded on our consolidated financial statements at cost, less accumulated depreciation and amortization. Maintenance and repairs are expensed as incurred. Expenditures that extend the useful lives of our assets are capitalized.

Developed or purchased software is capitalized in accordance with ASC 350, "Intangibles – Goodwill and Other." Facility construction costs are capitalized as incurred, with depreciation commencing when the facility is placed in service. We capitalize interest on our real estate construction projects in accordance with ASC 835, "Interest."

Provisions for depreciation and amortization of property and equipment have generally been made using the straight-line method over the following ranges of useful lives:

Type of Property and Equipment	Estimated Useful Life
Furniture and equipment	3 to 10 years
Leasehold, building and land improvements	3 to 14 years
Buildings	20 to 40 years
Software	3 to 8 years

We amortize leasehold improvements using the straight-line method over the shorter of the life of the improvement or the term of the underlying lease. Land is not depreciated.

We regularly review our long-lived assets for impairment whenever events or changes in circumstances indicate that their carrying amounts may not be recoverable. If we determine that the carrying amount of a long-lived asset exceeds the total amount of the estimated undiscounted future cash flows from that asset, we would determine the fair value of that asset. If the fair value is less than the net book value of the long-lived asset, we recognize an impairment loss in the amount of the difference. We base our impairment analyses of long-lived assets on our current business strategy, expected growth rates and estimates of future economic and regulatory conditions.

Insurance Liabilities. We record liabilities and related expenses for medical, workers compensation and other insurance in accordance with the contractual terms of the insurance policies. We record the total liabilities that are estimable and probable as of the reporting date for our insurance liabilities that we self-insure. The accounting for our self-insured arrangements involves estimates and judgments to determine the liability to be recorded for reported claims and claims incurred but not reported. We consider our historical experience in determining the appropriate insurance reserves to record. If our current insurance claim trends were to differ significantly from our historic claim experience, however, we would make a corresponding adjustment to our insurance reserves.

Contingent Liabilities. We are subject to various claims and contingencies in the ordinary course of our business, including those related to litigation, business transactions and employee-related matters, among others. When we are aware of a claim or potential claim, we assess the likelihood of any loss or exposure. If it is probable that a loss will result and the amount of the loss can be reasonably estimated, we record a liability for the loss. The liability recorded includes probable and estimable legal costs associated with the claim or potential claim. If the loss is not probable or the amount of the loss cannot be reasonably estimated, we disclose the claim if the likelihood of a potential loss is reasonably possible and the amount involved is material.

Guarantees. In accordance with ASC 460, "Guarantees," we recognize a liability for the fair value of a guarantee obligation upon its issuance. We evaluate the fair value of our guarantee obligations periodically and adjust the liability as warranted. The fair market value of our guarantees related to certain private student loan programs were estimated based on historical charge off experience with respect to private loans made to our students and the present value of the expected cash flows, taking into consideration current economic conditions, that may result from the settlement of the guarantee obligations in the future.

Treasury Stock. Repurchases of outstanding shares of our common stock are recorded at cost. Treasury stock issued in fulfillment of stock-based compensation awards or other obligations is accounted for under the last in, first out method. We record "losses" from the sale of treasury stock that exceed previous net "gains" from the sale of treasury stock as a charge to retained earnings.

The retirement of shares of our common stock held in treasury are accounted for under the first in, first out method. We reduce common stock in the amount of the par value of the shares retired and we reduce retained earnings in the amount of the difference between the cost of the treasury shares and their par value.

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Recognition of Revenue. Tuition revenue is recorded on a straight-line basis over the length of the applicable course to the extent that we consider the collectability of that revenue to be reasonably assured. If a student withdraws from an institution, the standards of most state education authorities that regulate our institutions, the accrediting commissions that accredit our institutions and our own internal policy limit a student's obligation for tuition and fees to the institution depending on when a student withdraws during an academic term ("Refund Policies"). The terms of the Refund Policies vary by state, and the limitations imposed by the Refund Policies are generally based on the portion of the academic term that has elapsed at the time the student withdraws. Generally, the greater the portion of the academic term that has elapsed at the time the student withdraws, the greater the student's obligation is to the institution for the tuition and fees related to that academic term. We record revenue net of any refunds that result from any applicable Refund Policy. On an individual student basis, tuition earned in excess of cash received is recorded as accounts receivable, and cash received in excess of tuition earned is recorded as deferred revenue.

We do not charge a separate fee for textbooks that students use in their programs of study. We record the cost of these textbooks in prepaid expenses and other current assets and amortize the cost of textbooks on a straight-line basis over the applicable course length. Tool kit sales, and the related cost, are recognized when the student receives the tool kit. Academic fees (which are charged only one time to students on their first day of class attendance) are recognized as revenue on a straight-line basis over the average program length. If a student withdraws from an institution, all unrecognized revenue relating to his or her fees, net of any refunds that result from any applicable Refund Policy, is recognized upon the student's departure. An administrative fee is charged to a student and recognized as revenue when the student withdraws or graduates from a program of study at an institution.

We report 12 weeks of tuition revenue in each of our four fiscal quarters. We standardized the number of weeks of revenue reported in each fiscal quarter, because the timing of student breaks in a calendar quarter can fluctuate from quarter to quarter each year. The total number of weeks of school during each year is 48.

Advertising Costs. We expense all advertising costs as incurred.

Equity-Based Compensation. Stock-based compensation cost for our equity instruments exchanged for employee and director services is measured at the date of grant, based on the calculated fair value of the grant and is recognized as an expense on a straight-line basis over the period of time that the grantee must provide services to us before the stock-based compensation is fully vested. The vesting period is generally the period set forth in the agreement granting the stock-based compensation. Under the terms of our stock-based compensation plans, some grants immediately vest in full when the grantee's employment or service terminates, and, for grants made prior to November 24, 2010, when he or she retires. As a result, in certain circumstances, the period of time that the grantee must provide services to us in order for that stock-based compensation to fully vest may be less than the vesting period set forth in the agreement granting the stock-based compensation. In these instances, compensation expense will be recognized over this shorter period.

We use a binomial option pricing model to determine the fair value of stock options granted and we use the market price of our common stock to determine the fair value of restricted stock and restricted stock units ("RSUs") granted. The binomial option pricing model takes into account the variables defined below:

- "Volatility" is a statistical measure of the extent to which the stock price is expected to fluctuate during a period and combines our historical stock price volatility and the implied volatility as measured by actively traded stock options.
- "Expected life" is the weighted average period that those stock options are expected to remain outstanding, based on the historical patterns of our stock option exercises, as adjusted to reflect the current position-level demographics of the stock option grantees.
- "Risk-free interest rate" is based on interest rates for terms that are similar to the expected life of the stock options.
- "Dividend yield" is based on our historical and expected future dividend payment practices.

We generally issue shares of our common stock from treasury shares upon the exercise of stock options or vesting of RSUs. As of December 31, 2011, 10,969,425 shares of our common stock were held in treasury. Our Board of Directors has authorized us to repurchase outstanding shares of our common stock, but we are unable to determine at this point how many shares we will repurchase over the next 12 months. See Note 5 for additional disclosures regarding our stock repurchases.

Operating Leases. We lease our non-owned facilities under operating lease agreements. Common provisions within our operating lease agreements include:

- renewal options, which can be exercised after the initial lease term;
- rent escalation clauses;
- tenant improvement allowances; and
- rent holidays.

We record the rent expense associated with each operating lease agreement evenly over the term of the lease. The difference between the amount of rent expense recorded and the amount of rent actually paid is recorded as accrued rent, which is included in Other liabilities, on our Consolidated Balance Sheets.

Income Taxes. We account for income taxes using the asset and liability method, which requires the recognition of deferred tax assets and liabilities for expected future tax consequences of temporary differences that currently exist between the tax bases and financial reporting bases of our assets and liabilities.

We follow the guidance under ASC 740, "Income Taxes," which prescribes a single, comprehensive model for how a company should recognize, measure, present and disclose in its financial statements uncertain tax positions that the company has taken or expects to take on its tax returns. This guidance requires us to evaluate whether it is more likely than not, based on the technical merits of a tax position, that the benefits resulting from the position will be realized by us.

We record interest and penalties related to unrecognized tax benefits in income tax expense.

2. New Accounting Guidance

In December 2011, the FASB issued Accounting Standards Update ("ASU") No. 2011-12, which is included in the Codification under ASC 220, "Comprehensive Income" ("ASC 220"). This update defers the effective date of ASU No. 2011-05 for changes that relate to the presentation of reclassification adjustments out of accumulated other comprehensive income. None of the other requirements in ASU 2011-05 are affected by this update. This guidance became effective for our interim and annual reporting periods beginning January 1, 2012. The adoption of this guidance will not have a material impact on our consolidated financial statements.

Also in December 2011, the FASB issued ASU No. 2011-11, which is included in the Codification under ASC 210, "Balance Sheet." This update provides for enhanced disclosures to help users of financial statements evaluate the effect or potential effect of netting arrangements on an entity's financial position. This guidance is effective for interim and annual reporting periods beginning January 1, 2013. We have not yet determined the effect that the adoption of this guidance will have on our financial statements.

In September 2011, the FASB issued ASU No. 2011-08, which is included in the Codification under ASC 350, "Intangibles – Goodwill and Other" ("ASC 350"). This update allows an entity to assess qualitative factors to determine whether it is necessary to perform the two-step quantitative goodwill impairment test. This guidance became effective for our interim and annual reporting periods beginning January 1, 2012. The adoption of this guidance will not have a material impact on our consolidated financial statements.

In June 2011, the FASB issued ASU No. 2011-05, which is included in the Codification under ASC 220. This update requires total comprehensive income, the components of net income and the components of other comprehensive income to be presented either in a single continuous statement or in two separate but consecutive statements. This guidance became effective for our interim and annual reporting periods beginning January 1, 2012. Prior to January 1, 2012, we presented total Comprehensive income and the components of Other comprehensive income in our Consolidated Statements of Shareholders' Equity. The adoption of this guidance will require us to present Comprehensive income on a different statement.

In May 2011, the FASB issued ASU No. 2011-04, which is included in the Codification under ASC 820, "Fair Value Measurements" ("ASC 820"). This update provides guidance and clarification about the application of existing fair value measurements and disclosure requirements. This guidance became effective for our interim and annual reporting periods beginning January 1, 2012. The adoption of this guidance will not have a material impact on our consolidated financial statements.

In December 2010, the FASB issued ASU No. 2010-29, which is included in the Codification under ASC 805, "Business Combinations." This update provides guidance on the disclosure of supplemental pro forma information for business combinations. This guidance became effective for our interim and annual reporting periods beginning January 1, 2011. The adoption of this guidance did not have a material impact on our consolidated financial statements.

Also in December 2010, the FASB issued ASU No. 2010-28, which is included in the Codification under ASC 350. This update provides guidance on applying the goodwill impairment test for reporting units with zero or negative carrying amounts. This guidance became effective for our interim and annual reporting periods beginning January 1, 2011. The adoption of this guidance did not have a material impact on our consolidated financial statements.

3. Fair Value and Credit Risk of Financial Instruments

ASC 820 defines fair value for financial reporting as the price that would be received upon the sale of an asset or paid upon the transfer of a liability in an orderly transaction between market participants at the measurement date. The fair value measurement of our financial assets utilized assumptions categorized as observable inputs under ASC 820. Observable inputs are assumptions based on independent market data sources.

The following table sets forth information regarding the fair value measurement of our financial assets as of December 31, 2011:

Description	As of December 31, 2011	Fair Value Measurements at Reporting Date Using (Level 1) Quoted Prices in Active Markets for Identical Assets	(Level 2) Significant Other Observable Inputs	(Level 3) Significant Unobservable Inputs
Cash equivalents:				
Money market funds	$ 228,287	$ 228,287	$ 0	$ 0
Short-term investments:				
U.S. Treasury obligations	100,517	100,517	0	0
Government agency obligations	31,351	0	31,351	0
Corporate obligations	16,620	0	16,620	0
Other assets:				
Money market fund	7,576	7,576	0	0
	$ 384,351	$ 336,380	$ 47,971	$ 0

The following table sets forth information regarding the fair value measurement of our financial assets as of December 31, 2010:

Description	As of December 31, 2010	Fair Value Measurements at Reporting Date Using (Level 1) Quoted Prices in Active Markets for Identical Assets	(Level 2) Significant Other Observable Inputs	(Level 3) Significant Unobservable Inputs
Cash equivalents:				
Money market funds	$ 163,165	$ 163,165	$ 0	$ 0
Short-term investments:				
U.S. Treasury obligations	110,560	110,560	0	0
Government agency obligations	24,394	0	24,394	0
Corporate obligations	8,903	0	8,903	0
Other assets:				
Money market fund	4,372	4,372	0	0
	$ 311,394	$ 278,097	$ 33,297	$ 0

We used quoted prices in active markets for identical assets as of the measurement dates to value our financial assets that were categorized as Level 1. For assets that were categorized in Level 2, we used:

- quoted prices for similar assets in active markets;
- quoted prices for identical or similar assets in markets that were not active or in which little public information had been released;
- inputs other than quoted prices that were observable for the assets; or
- inputs that were principally derived from or corroborated by observable market data by correlation or other means.

The carrying amounts for cash and cash equivalents, restricted cash, accounts receivable, accounts payable, other current liabilities and deferred revenue approximate fair value because of the immediate or short-term maturity of these financial instruments. Investments classified as available-for-sale are recorded at their market value.

The fair value of the notes receivable included in Other assets on our Consolidated Balance Sheet as of December 31, 2011 is estimated by discounting the future cash flows using current rates for similar arrangements. As of December 31, 2011, the carrying value and the estimated fair value of these financial instruments was approximately $19,000.

The fair value of our long-term debt is estimated by discounting the future cash flows using current rates for similar loans with similar characteristics and remaining maturities. As of December 31, 2011, the carrying value and the estimated fair value of our long-term debt was approximately $150,000.

Financial instruments that potentially subject us to credit risk consist primarily of accounts receivable, interest-bearing investments and notes receivable. There is no concentration of credit risk of our accounts receivable, as the total is comprised of a large number of individual balances owed by students whose credit profiles vary and who are located throughout the United States. Our interest-bearing investments generally consist of high-quality securities issued by various entities and major financial institutions. Substantially all of the assets of the party to whom we issued one of the notes receivable serve as collateral for the repayment of the note.

4. Equity Compensation Plans

We have adopted the following equity compensation plans, referred to collectively as the "Plans":

- *2006 ITT Educational Services, Inc. Equity Compensation Plan* – Awards may be granted to our employees and directors under the 2006 ITT Educational Services, Inc. Equity Compensation Plan, as amended ("2006 Equity Compensation Plan") in the form of stock options (incentive and nonqualified), stock appreciation rights ("SARs"), restricted stock, RSUs, performance shares, performance units and other stock-based awards as defined in the plan. The maximum number of shares of our common stock that may be issued pursuant to awards under this plan is 4,000,000. Each share underlying stock options and SARs granted and not forfeited or terminated, reduces the number of shares available for future awards by one share. The delivery of a share in connection with a "full-value award" (i.e., an award of restricted stock, RSUs, performance shares, performance units or any other stock-based award with value denominated in shares) reduces the number of shares remaining for other awards by three shares. As of December 31, 2011, restricted stock, RSUs and nonqualified stock options have been awarded under this plan.
- *1999 Outside Directors Stock Option Plan* – A maximum of 500,000 shares of our common stock were available to be issued upon the exercise of nonqualified stock options granted to non-employee directors under the 1999 Outside Directors Stock Option Plan ("1999 Directors Stock Plan").
- *1997 ITT Educational Services, Inc. Incentive Stock Plan* – A maximum of 8,100,000 shares of our common stock were available to be issued upon the exercise of stock options and pursuant to other forms of awards under the 1997 ITT Educational Services, Inc. Incentive Stock Plan ("1997 Stock Plan"), but no more than 20% of the total number of shares on a cumulative basis could have been used for restricted stock or performance share awards. A maximum of 1.5% of our outstanding shares of common stock could have been issued annually, with any unissued shares available to be issued in later years.

No additional awards have been or will be granted after May 9, 2006 under the 1999 Directors Stock Plan or the 1997 Stock Plan.

The stock-based compensation expense and related income tax benefit recognized in our Consolidated Statements of Income in the periods indicated were as follows:

	Year Ended December 31,		
	2011	2010	2009
Stock-based compensation expense	$ 17,074	$ 15,813	$ 13,074
Income tax (benefit)	($ 6,574)	($ 6,089)	($ 5,034)

We did not capitalize any stock-based compensation cost in the years ended December 31, 2011, 2010 and 2009.

As of December 31, 2011, we estimated that pre-tax compensation expense for unvested stock-based compensation grants in the amount of approximately $16,900, net of estimated forfeitures, will be recognized in future periods. This expense will be recognized over the remaining service period applicable to the grantees which, on a weighted-average basis, is approximately 1.9 years.

Stock Options. Under the Plans, the stock option exercise price may not be less than 100% of the fair market value of our common stock on the date of grant. The maximum term of any stock option granted under the 2006 Equity Compensation Plan may not exceed seven years from the date of grant, and those stock options will be exercisable at such times and under conditions as determined by the Compensation Committee of our Board of Directors, subject to the limitations contained in the plan.

Under the 1999 Directors Stock Plan, the stock options granted typically vested and became exercisable on the first anniversary of the grant. The maximum term of any stock option granted under the 1999 Directors Stock Plan was: (a) 10 years from the date of grant for any stock options granted prior to January 25, 2005; and (b) seven years from the date of grant for any stock options granted on or after January 25, 2005.

Under the 1997 Stock Plan, the stock options granted typically vested and became exercisable in three equal annual installments commencing with the first anniversary of the date of grant. The maximum term of any stock option granted under the 1997 Stock Plan was 10 years and two days from the date of grant.

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The stock options granted, forfeited, exercised and expired in the period indicated were as follows:

	Year Ended December 31, 2011				
	# of Shares	Weighted Average Exercise Price	Aggregate Exercise Price	Weighted Average Remaining Contractual Term	Aggregate Intrinsic Value (1)
Outstanding at beginning of period	1,724,791	$ 77.95	$ 134,447		
Granted	159,500	$ 69.43	11,074		
Forfeited	0	$ 0.00	0		
Exercised	(118,410)	$ 47.28	(5,599)		
Expired	0	$ 0.00	0		
Outstanding at end of period	1,765,881	$ 79.24	$ 139,922	3.5 years	$ 7,486
Exercisable at end of period	1,319,700	$ 72.48	$ 95,656	2.8 years	$ 7,486

(1) The aggregate intrinsic value of the stock options was calculated by identifying those stock options that had a lower exercise price than the closing market price of our common stock on December 30, 2011 and multiplying the difference between the closing market price of our common stock and the exercise price of each of those stock options by the number of shares subject to those stock options that were outstanding or exercisable, as applicable.

The following table sets forth information regarding the stock options granted and exercised in the periods indicated:

	Year Ended December 31,		
	2011	2010	2009
Shares subject to stock options granted	159,500	305,000	258,000
Weighted average grant date fair value	$ 28.90	$ 43.59	$ 54.05
Shares subject to stock options exercised	118,410	179,079	210,044
Intrinsic value of stock options exercised	$ 3,095	$ 8,920	$ 14,626
Proceeds received from stock options exercised	$ 5,599	$ 7,893	$ 8,800
Tax benefits realized from stock options exercised	$ 1,190	$ 3,385	$ 5,475

The intrinsic value of a stock option is the difference between the fair market value of the stock and the option exercise price. The fair value of each stock option grant was estimated on the date of grant using the following assumptions:

	Year Ended December 31,		
	2011	2010	2009
Risk-free interest rates	1.8%	2.2%	1.6%
Expected lives (in years)	4.7	4.6	4.5
Volatility	48%	43%	54%
Dividend yield	None	None	None

Restricted Stock Units. Under the 2006 Equity Compensation Plan, RSUs awarded are subject to a restriction period of at least: (a) for awards made prior to November 24, 2010, three years in the case of a time-based period of restriction and one year in the case of a performance-based period of restriction; and (b) for awards made after November 24, 2010, one year. All RSUs awarded under the 2006 Equity Compensation Plan as of December 31, 2011 have a time-based restriction period that ranges from ending on the first to the fifth anniversary of the date of grant.

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The following table sets forth the number of RSUs that were granted, forfeited and vested in the period indicated:

	Year Ended December 31, 2011		
	# of RSUs		Weighted Average Grant Date Fair Value
Unvested at beginning of period	128,803	$	99.22
Granted	249,781	$	70.04
Forfeited	(28,011)	$	82.96
Vested	(36,567)	$	82.22
Unvested at end of period	314,006	$	79.44

In 2011, we awarded 50,363 RSUs that had a time-based restriction period that ended on the first anniversary of the date of grant. Each of these RSUs had a grant date fair value of $69.43 and was settled in cash in January 2012. All other RSUs awarded in 2011 have time-based restriction periods that lapse in thirds on each of the first three anniversaries of the date of grant or in full on the third anniversary of the date of grant and all such RSUs will be settled in shares of our common stock. The total fair market value of the RSUs vested during the year ended December 31, 2011 was $2,454.

5. Stock Repurchases

As of December 31, 2011, 5,796,725 shares remained available for repurchase under the share repurchase program (the "Repurchase Program") authorized by our Board of Directors. The terms of the Repurchase Program provide that we may repurchase shares of our common stock, from time to time depending on market conditions and other considerations, in the open market or through privately negotiated transactions in accordance with Rule 10b-18 of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). Unless earlier terminated by our Board of Directors, the Repurchase Program will expire when we repurchase all shares authorized for repurchase thereunder.

The following table sets forth information regarding the shares of our common stock that we repurchased in the periods indicated:

	Year Ended December 31,			
		2011		2010
Number of shares		4,040,000		5,657,500
Total cost	$	282,701	$	434,656
Average cost per share	$	69.98	$	76.83

6. Earnings Per Common Share

Earnings per common share for all periods have been calculated in conformity with ASC 260, "Earnings Per Share." This data is based on historical net income and the weighted average number of shares of our common stock outstanding during each period as set forth in the following table:

	Year Ended December 31,		
	2011	2010	2009
	(In thousands)		
Shares:			
Weighted average number of shares of common stock outstanding	27,429	33,165	37,490
Shares assumed issued (less shares assumed purchased for treasury) for stock-based compensation	226	336	452
Outstanding shares for diluted earnings per share calculation	27,655	33,501	37,942

A total of 1,128,236 shares for fiscal year 2011, 1,002,962 shares for fiscal year 2010 and 272,279 shares for fiscal year 2009 were excluded from the calculation of our diluted earnings per common share because the effect was anti-dilutive.

7. Debt

We are a party to a Second Amended and Restated Credit Agreement dated as of January 11, 2010, as amended (the "Credit Agreement"), which provides that we may borrow up to $150,000 under two revolving credit facilities: one in the maximum principal amount of $100,000; and the other in the maximum principal amount of $50,000. Borrowings under the Credit Agreement have been and may be used to allow us to continue repurchasing shares of our common stock while maintaining compliance with certain financial ratios required by various education authorities that regulate us. Both revolving credit facilities under the Credit Agreement mature on July 1, 2014.

The Credit Agreement was amended as of June 27, 2011 to:

- extend the maturity date;
- decrease the margin applicable to the interest rate that is based on the London Interbank Offered Rate ("LIBOR") and adjusted for any reserve percentage obligations under the Federal Reserve System regulations; and
- decrease the facility fee.

We can borrow under each credit facility on either a secured or unsecured basis at our election, except if an event that would be a default under the Credit Agreement has occurred and is continuing, we may not elect to borrow on an unsecured basis. Cash equivalents and investments held in a pledged account serve as the collateral for any secured borrowings under the Credit Agreement. Secured borrowings may not exceed 95% of the fair market value of the collateral.

The Credit Agreement contains, among other things, covenants, representations and warranties and events of default customary for credit facilities. Our material subsidiaries also guarantee the obligations under the Credit Agreement. Our ability to borrow under the Credit Agreement is subject to our satisfaction of certain specified conditions at the time of borrowing. These conditions include the absence of default by us, as defined in the Credit Agreement, and that the representations and warranties contained in the Credit Agreement and related documents continue to be true and correct. Under the Credit Agreement, we are also required to maintain:

- a certain maximum leverage ratio at the end of each of our fiscal quarters;
- a quarterly minimum ratio of cash and investments to indebtedness; and
- a minimum United States Department of Education ("ED") financial responsibility composite ratio as of the end of each fiscal year.

We were in compliance with those requirements as of December 31, 2011.

Borrowings under the Credit Agreement bear interest, at our option, at the LIBOR plus an applicable margin or at an alternative base rate, as defined under the Credit Agreement. As of December 31, 2011, we pay a facility fee equal to 0.25% per annum on the daily amount of the commitment (whether used or unused) under the Credit Agreement. As of December 31, 2011, the borrowings under the Credit Agreement were $150,000, all of which were secured and bore interest at a rate of 0.74% per annum. Approximately $157,950 of our investments and cash equivalents held in a pledged account served as collateral for the secured borrowings as of December 31, 2011.

We recognized interest expense on our borrowings of $1,825 in the year ended December 31, 2011, $1,912 in the year ended December 31, 2010 and $717 in the year ended December 31, 2009.

8. Financial Aid Programs

We participate in various Title IV Programs of the HEA. In 2011, approximately 67% of our revenue determined on a cash accounting basis under the calculation of the provision of the HEA commonly referred to as the "90/10 Rule" was from funds distributed under these programs.

We administer the Title IV Programs in separate accounts as required by government regulation. We are required to administer the funds in accordance with the requirements of the HEA and the ED's regulations and must use due diligence in approving and disbursing funds and servicing loans. In the event we do not comply with federal requirements, or if student loan default rates rise to a level considered excessive by the federal government, we could lose our eligibility to participate in Title IV Programs or could be required to repay funds determined to have been improperly disbursed. Our management believes that we are in substantial compliance with the federal requirements.

9. Investments

Our available-for-sale investments were classified as short-term investments on our December 31, 2011 and 2010 Consolidated Balance Sheets. The following table sets forth the aggregate fair value, amortized cost basis and the net unrealized gains and losses included in accumulated other comprehensive income (loss) of our available-for-sale investments as of the dates indicated:

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	As of:					
	December 31, 2011			December 31, 2010		
	Aggregate Fair Value	Amortized Cost	Net Unrealized Gains (Losses)	Aggregate Fair Value	Amortized Cost	Net Unrealized Gains (Losses)
Available-for-Sale Investments:						
Government obligations	$ 100,517	$ 100,480	$ 37	$ 110,560	$ 110,550	$ 10
Government agency obligations	31,351	31,354	(3)	24,394	24,399	(5)
Corporate obligations	16,620	16,633	(13)	8,903	8,908	(5)
	$ 148,488	$ 148,467	$ 21	$ 143,857	$ 143,857	$ 0

We also held a certificate of deposit with a total principal value of $5,303 as of December 31, 2010. We did not hold a certificate of deposit as of December 31, 2011. This investment was included in Short-term investments on our Consolidated Balance Sheet. We had $148,488 of debt securities classified as available-for-sale as of December 31, 2011, and all of those debt securities had contractual maturities within one year.

The following table sets forth the unrealized gains and losses on available-for-sale investments that were included in other comprehensive income (loss) in the periods indicated:

	Year Ended December 31,		
	2011	2010	2009
Unrealized gains	$ 0	$ 104	$ 0
Unrealized losses	($ 60)	$ 0	($ 451)

No unrealized gains or losses were reclassified out of our accumulated other comprehensive income (loss) during our fiscal years ended December 31, 2011 and 2010.

The following table sets forth the components of investment income included in interest income in our Consolidated Statements of Income in the periods indicated:

	Year Ended December 31,		
	2011	2010	2009
Realized net gains on the sale of investments	$ 325	$ 96	$ 177
Interest income on investments	414	731	3,114
	$ 739	$ 827	$ 3,291

10. Property and Equipment

The following table sets forth our property and equipment, net, as of the dates indicated:

	As of December 31,	
	2011	2010
Furniture and equipment	$ 167,743	$ 153,014
Buildings and building improvements	131,243	126,898
Land and land improvements	39,609	39,598
Leasehold improvements	18,055	16,547
Software	8,620	8,620
Construction in progress	6,000	4,043
	$ 371,270	$ 348,720
Less: Accumulated depreciation and amortization	(170,013)	(150,507)
Property and equipment, net	$ 201,257	$ 198,213

Software includes purchased and internally developed software.

The following table sets forth the depreciation and amortization expense for the assets listed above in the periods indicated:

	Year Ended December 31,		
	2011	2010	2009
Depreciation and amortization expense	$ 27,856	$ 26,764	$ 24,895

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11. Variable Interests

On January 20, 2010, we entered into agreements with unrelated third parties to establish the PEAKS Private Student Loan Program ("PEAKS Program"), which is a private education loan program for our students. Under the PEAKS Program, an unaffiliated lender originated private education loans to our eligible students and, subsequently, sells those loans to an unaffiliated trust that purchases, owns and collects private education loans ("PEAKS Trust"). The PEAKS Trust issued senior debt in the aggregate principal amount of $300,000 ("PEAKS Senior Debt") to investors. The lender disburses the proceeds of the private education loans to us for application to the students' account balances with us that represent their unpaid education costs. We transfer a portion of the amount of each private education loan disbursed to us under the PEAKS Program to the PEAKS Trust in exchange for a subordinated note issued by the PEAKS Trust ("Subordinated Note"). No new private education loans were or will be originated under the PEAKS Program after July 2011, but immaterial amounts related to loans originated prior to that date will be disbursed by the lender and purchased by the PEAKS Trust through approximately March 2012.

The Subordinated Note is non-interest bearing and has been recorded net of an unamortized discount based on an imputed interest rate of 9.0% in Other assets on our Consolidated Balance Sheets. The discount will be amortized and recognized in Interest income on our Consolidated Statements of Income over the term of the Subordinated Note, which is expected to be approximately 15 years. The face value of the Subordinated Note as of December 31, 2011 was approximately $78,000.

The PEAKS Trust utilizes the proceeds from the issuance of the PEAKS Senior Debt and the Subordinated Note to purchase the private education loans made by the lender to our students. The assets of the PEAKS Trust (which include, among other assets, the private education loans owned by the PEAKS Trust) serve as collateral for, and are intended to be the principal source of, the repayment of the PEAKS Senior Debt and the Subordinated Note. The PEAKS Trust is required to maintain assets having an aggregate value that exceeds the outstanding balance of the PEAKS Senior Debt. As of December 31, 2011, the value of the assets of the PEAKS Trust satisfied this requirement. We guarantee payment of the principal, interest and certain call premiums owed on the PEAKS Senior Debt, and the administrative fees and expenses of the PEAKS Trust ("PEAKS Guarantee"). See Note 14 – Commitments and Contingencies, for further discussion of the PEAKS Guarantee.

We did not explicitly or implicitly provide any financial or other support to the PEAKS Trust during the fiscal year ended December 31, 2011 that we were not contractually required to provide, and we do not intend to provide any such support to the PEAKS Trust in the foreseeable future, other than what we are contractually required to provide.

The PEAKS Trust is a variable interest entity as defined under ASC 810. We held variable interests in the PEAKS Trust as of December 31, 2011 as a result of the Subordinated Note and PEAKS Guarantee. To determine whether we were the primary beneficiary of the PEAKS Trust, we:

- assessed the risks that the PEAKS Trust was designed to create and pass through to its variable interest holders;
- identified the variable interests in the PEAKS Trust;
- identified the other variable interest holders and their involvement in the activities of the PEAKS Trust;
- identified the activities that most significantly impact the PEAKS Trust's economic performance;
- determined whether we have the power to direct those activities; and
- determined whether we have the right to receive the benefits from, or the obligation to absorb the losses of, the PEAKS Trust that could potentially be significant to the PEAKS Trust.

We determined that the activities of the PEAKS Trust that most significantly impact the economic performance of the PEAKS Trust involve:

- establishing the underwriting criteria of, and the interest rates and fees charged on, the private education loans acquired by the PEAKS Trust; and
- the servicing (which includes the collection) of the private education loans owned by the PEAKS Trust.

To make that determination, we analyzed various possible scenarios of student loan portfolio performance to evaluate the potential economic impact on the PEAKS Trust. In our analysis, we made what we believe are conservative assumptions based on historical data for the following key variables:

- the composition of the credit profiles of the borrowers;
- the interest rates and fees charged on the loans;
- the default rates and the timing of defaults associated with similar types of loans; and
- the prepayment and the speed of repayment associated with similar types of loans.

Based on our analysis, we concluded that we are not the primary beneficiary of the PEAKS Trust, because we do not have the power to direct the activities that most significantly impact the economic performance of the PEAKS Trust. As a result, we are not required under ASC 810 to include the financial results of the PEAKS Trust in our consolidated financial statements for the fiscal year ended December 31, 2011. Our conclusion that we are not the primary beneficiary of the PEAKS Trust did not change from the prior reporting period. Therefore, there was no effect on our consolidated financial statements.

On February 20, 2009, we entered into agreements with an unaffiliated entity (the "2009 Entity") to create a program that made private education loans available to our students to help pay the students' cost of education that student financial aid from federal, state and other sources did not cover (the "2009 Loan Program"). Under the 2009 Loan Program, an unaffiliated lender originated private education loans to our eligible students and, subsequently, sells those loans to the 2009 Entity. The 2009 Entity purchases the private education loans from the lender utilizing funds received from its owners in exchange for participation interests in the private education loans acquired by the 2009 Entity. The lender disburses the proceeds of the private education loans to us for application to the students' account balances with us that represent their unpaid education costs. No new private education loans were or will be originated under the 2009 Loan Program after December 31, 2011, but immaterial amounts related to loans originated prior to that date will be disbursed by the lender and purchased by the 2009 Entity through approximately June 2012.

In connection with the 2009 Loan Program, we entered into a risk sharing agreement (the "2009 RSA") with the 2009 Entity. Under the 2009 RSA, we guarantee the repayment of any private education loans that are charged off above a certain percentage of the private education loans made under the 2009 Loan Program, based on the annual dollar volume. See Note 14 – Commitments and Contingencies, for further discussion of the 2009 RSA.

In addition, we have made advances to the 2009 Entity under a revolving promissory note (the "Revolving Note"). We provided advances of approximately $550 in the fiscal year ended December 31, 2011 and approximately $6,311 in the fiscal year ended December 31, 2010 to the 2009 Entity under the Revolving Note that we were not contractually required to provide. Substantially all of the assets of the 2009 Entity serve as collateral for the Revolving Note. The Revolving Note bears interest, is subject to customary terms and conditions and may be repaid at any time without penalty prior to its 2026 maturity date.

The advances under the Revolving Note were primarily used by the 2009 Entity to purchase additional private education loans under the 2009 Loan Program that otherwise may not have been originated. We have no immediate plans to significantly increase the amount of advances that we make to the 2009 Entity under the Revolving Note, but we may decide to do so in the foreseeable future.

The 2009 Entity is a variable interest entity as defined under ASC 810. We held variable interests in the 2009 Entity as of December 31, 2011 as a result of the Revolving Note and 2009 RSA. To determine whether we were the primary beneficiary of the 2009 Entity, we:

- assessed the risks that the 2009 Entity was designed to create and pass through to its variable interest holders;
- identified the variable interests in the 2009 Entity;
- identified the other variable interest holders and their involvement in the activities of the 2009 Entity;
- identified the activities that most significantly impact the 2009 Entity's economic performance;
- determined whether we have the power to direct those activities; and
- determined whether we have the right to receive the benefits from, or the obligation to absorb the losses of, the 2009 Entity that could potentially be significant to the 2009 Entity.

To identify the activities of the 2009 Entity that most significantly impact the economic performance of the 2009 Entity, we analyzed various possible scenarios of private education loan portfolio performance. In our analysis, we made what we believe are conservative assumptions based on historical data for the following key variables:

- the composition of the credit profiles of the borrowers;
- the interest rates and fees charged on the loans;
- the default rates and the timing of defaults associated with similar types of loans; and
- the prepayment and the speed of repayment associated with similar types of loans.

We determined that the activities of the 2009 Entity that most significantly impact its economic performance involve:

- establishing the underwriting criteria of, and the interest rates and fees charged on, the private education loans acquired by the 2009 Entity; and
- the servicing (which includes the collection) of the private education loans owned by the 2009 Entity.

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Based on our analysis, we concluded that we are not the primary beneficiary of the 2009 Entity, because we do not direct those activities. As a result, we are not required under ASC 810 to include the financial results of the 2009 Entity in our consolidated financial statements for the fiscal year ended December 31, 2011. Our conclusion that we are not the primary beneficiary of the 2009 Entity did not change from the prior reporting period. Therefore, there was no effect on our consolidated financial statements.

The carrying value of the Subordinated Note and the Revolving Note as of December 31, 2011 was approximately $19,000 and is included in Other assets on our Consolidated Balance Sheet.

12. Income Taxes

The following table sets forth the components of the provision for income taxes in the periods indicated:

	Year Ended December 31,		
	2011	2010	2009
Current income tax expense:			
U.S. federal	$ 174,264	$ 216,839	$ 165,806
State and local	35,128	37,687	28,354
Total	$ 209,392	$ 254,526	$ 194,160
Deferred income tax (benefit):			
U.S. federal	($ 7,564)	($ 12,244)	($ 2,579)
State and local	(1,427)	(2,313)	(487)
Total	($ 8,991)	($ 14,557)	($ 3,066)
Total provision for income taxes	$ 200,401	$ 239,969	$ 191,094

The following table sets forth the components of our deferred income tax assets (liabilities) as of the dates indicated:

	As of December 31,	
	2011	2010
Deferral of book costs	($ 1,934)	($ 2,226)
Property and equipment	(9,742)	(2,885)
Pension	(1,674)	(4,465)
Other	(2,159)	(1,230)
Gross deferred tax (liabilities)	($ 15,509)	($ 10,806)
Deferred revenue	$ 5,400	$ 3,542
Accounts receivable	3,581	2,938
Legal accrual	1,980	2,111
Compensation and benefits	1,316	3,284
Stock-based compensation	20,255	15,113
Operating leases	724	1,426
Other assets	11,575	8,885
Other contingent liabilities	13,704	4,400
Gross deferred tax assets	$ 58,535	$ 41,699
Net deferred income tax asset	$ 43,026	$ 30,893

The difference between the U.S. federal statutory income tax rate and our effective income tax rate as a percentage of income in the periods indicated is reconciled in the following table:

	Year Ended December 31,		
	2011	2010	2009
U.S. federal statutory income tax rate	35.0%	35.0%	35.0%
State income taxes, net of federal benefit	4.0%	3.6%	3.6%
Other	0.4%	0.5%	0.3%
Effective income tax rate	39.4%	39.1%	38.9%

The following table sets forth the activity with respect to our unrecognized tax benefits in the period indicated:

	Year Ended December 31,		
	2011	2010	2009
Balance as of January 1	$ 22,888	$ 13,274	$ 10,889
Increases (decreases) from:			
Tax positions taken during a prior period	1,042	522	0
Tax positions taken during the current period	2,434	9,461	3,053
Settlements with taxing authorities	(2,487)	(78)	(505)
Lapse of statute of limitations	(1,827)	(291)	(163)
Balance as of December 31	$ 22,050	$ 22,888	$ 13,274

The amount of unrecognized tax benefits that, if recognized, would have affected our effective tax rate as of December 31, 2011 was $10,449. We do not expect the amount of our unrecognized tax benefits to significantly increase or decrease during the next 12 months. The amount of interest and penalties related to unrecognized tax benefits accrued on our Consolidated Balance Sheets was $5,177 as of December 31, 2011 and $2,797 as of December 31, 2010. In each of the years ended December 31, 2011, 2010 and 2009, the amount of interest expense and penalties related to our unrecognized tax benefits that we recognized in our Consolidated Statements of Income was not material.

We file income tax returns in the United States (federal) and in various state and local jurisdictions. As of December 31, 2011, we were no longer subject to federal, state or local income tax examinations for tax years prior to 2008, except in nine states where we are still subject to income tax examinations for tax years 2005 through 2007.

13. Employee Benefit Plans

Employee Pension Benefits. Our ESI Pension Plan, a non-contributory defined benefit pension plan, commonly referred to as a cash balance plan, covers substantially all of our employees who began their employment with us prior to June 2, 2003. This plan provides benefits based on an employee's annual earnings times an established percentage of pay determined by the employee's age and years of benefit service. Effective June 2, 2003, we closed participation in the ESI Pension Plan to all new employees. Employees who begin their employment with us on or after June 2, 2003 do not participate in the ESI Pension Plan.

Our ESI Excess Pension Plan, a nonqualified, unfunded retirement plan, covers a select group of our management. The purpose of the ESI Excess Pension Plan is to restore benefits earned, but not available, to eligible employees under the ESI Pension Plan due to federal statutory limitations on the amount of benefits that can be paid and compensation that may be recognized under a tax-qualified retirement plan.

The benefit accruals under the ESI Pension Plan and the ESI Excess Pension Plan for all participants in those plans were frozen effective March 31, 2006, such that no further benefits accrue under those plans after March 31, 2006. Participants in those plans, however, continue to be credited with vesting service and interest according to the terms of the ESI Pension Plan and the ESI Excess Pension Plan.

Effective January 1, 2011, we changed the rates at which interest is credited under the ESI Pension Plan and ESI Excess Pension Plan. This change resulted in the recognition of $10,370 of prior service credits in other comprehensive loss in the year ended December 31, 2010.

The information presented below is based on an actuarial valuation date as of December 31 for 2011 and 2010.

The following table sets forth the change in projected benefit obligation for the periods indicated:

	Year Ended December 31,	
	2011	2010
Projected benefit obligation at beginning of year	$ 49,878	$ 53,854
Service cost	0	0
Actuarial loss	5,215	6,406
Interest cost	2,405	3,048
Benefits paid	(3,013)	(3,060)
Plan amendments	0	(10,370)
Projected benefit obligation at end of year	$ 54,485	$ 49,878
Fair value of plan assets at end of year	58,839	61,385
Funded status at end of year	$ 4,354	$ 11,507

Our accumulated benefit obligation was $54,485 at December 31, 2011 and $49,878 at December 31, 2010.

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The following table sets forth the funded status of our defined benefit plans that was recognized on our Consolidated Balance Sheets as of the dates indicated:

	As of December 31,	
	2011	2010
Non-current assets	$ 4,641	$ 11,752
Current (liabilities)	0	0
Non-current (liabilities)	(287)	(245)
Total	$ 4,354	$ 11,507

The weighted-average assumptions used to determine benefit obligations as of December 31, 2011 and 2010 are as follows:

	2011	2010
Discount rate	4.00%	5.00%
Rate of compensation increase	N/A	N/A

The following table sets forth the change in plan assets for the periods indicated:

	Year Ended December 31,	
	2011	2010
Fair value of plan assets at beginning of year	$ 61,385	$ 56,966
Actual return on plan assets	467	7,479
Employer contributions	0	0
Benefits paid	(3,013)	(3,060)
Fair value of plan assets at end of year	$ 58,839	$ 61,385

The following tables set forth the fair value of total plan assets by major asset category as of the dates indicated:

		Fair Value Measurements as of December 31, 2011		
Asset Category	Total	(Level 1) Quoted Prices in Active Markets for Identical Assets	(Level 2) Significant Other Observable Inputs	(Level 3) Significant Unobservable Inputs
Cash and cash equivalents	$ 573	$ 573	$ 0	$ 0
Fixed income securities (a)	19,000	19,000	0	0
Equity securities:				
Domestic large cap	25,424	25,424	0	0
Mid cap value/growth (a)	7,744	7,744	0	0
Small cap value/growth (a)	4,343	4,343	0	0
Foreign equities	1,755	1,755	0	0
Total	$ 58,839	$ 58,839	$ 0	$ 0

(a) Mutual funds.

Asset Category	Total	Fair Value Measurements as of December 31, 2010 (Level 1) Quoted Prices in Active Markets for Identical Assets	(Level 2) Significant Other Observable Inputs	(Level 3) Significant Unobservable Inputs
Cash and cash equivalents	$ 292	$ 292	$ 0	$ 0
Fixed income securities (a)	20,781	20,781	0	0
Equity securities:				
Domestic large cap	26,322	26,322	0	0
Mid cap value/growth (a)	7,885	7,885	0	0
Small cap value/growth (a)	4,495	4,495	0	0
Foreign equities	1,610	1,610	0	0
Total	$ 61,385	$ 61,385	$ 0	$ 0

(a) Mutual funds.

We used quoted prices in active markets for identical assets as of the measurement dates to value our plan assets that were categorized as Level 1.

The following table sets forth the amounts in Accumulated other comprehensive loss on our Consolidated Balance Sheets that have not been recognized as components of net periodic benefit cost as of the dates indicated:

	As of December 31, 2011	2010
Net actuarial (loss)	($ 24,322)	($ 17,824)
Prior service credit	8,688	10,242
Total accumulated other comprehensive (loss)	($ 15,634)	($ 7,582)
Income tax benefit	6,134	2,992
Total accumulated other comprehensive (loss), net of tax	($ 9,500)	($ 4,590)

The following table sets forth the components of net periodic pension cost (benefit) in the periods indicated:

	Year Ended December 31, 2011	2010	2009
Interest cost	$ 2,405	$ 3,048	$ 3,103
Expected return on assets	(4,756)	(4,401)	(3,819)
Recognized net actuarial loss	1,802	1,917	2,364
Amortization of prior service (credit) cost	(1,554)	28	28
Settlement loss	1,204	0	46
Total net periodic pension (benefit) cost	($ 899)	$ 592	$ 1,722

The benefit accruals under the ESI Pension Plan and ESI Excess Pension Plan were frozen effective March 31, 2006. As a result, no service cost has been included in the net periodic pension cost or benefit.

The following table sets forth the amounts related to changes in plan assets and projected benefit obligations that were recognized in other comprehensive (income) loss in the periods indicated:

	Year Ended December 31, 2011	2010	2009
Net actuarial loss (gain)	$ 9,504	$ 3,328	($ 3,719)
Amortization of net actuarial loss	(1,802)	(1,917)	(2,364)
Prior service cost (credit)	0	(10,370)	0
Amortization of prior service cost (credit)	1,554	(28)	(28)
Settlement	(1,204)	0	(46)
Other comprehensive loss (income)	$ 8,052	($ 8,987)	($ 6,157)
Total recognized in net periodic pension cost (benefit) and other comprehensive loss (income)	$ 7,153	($ 8,395)	($ 4,435)

The amortization of any prior service cost is determined using a straight-line amortization of the cost over the average remaining service period for employees expected to receive benefits under the pension plans. The estimated net actuarial loss that is expected to be amortized from accumulated other comprehensive loss and recognized in net periodic pension cost for the year ended December 31, 2012 is $2,784 and the estimated prior service credit that is expected to be amortized from accumulated other comprehensive loss and recognized in net periodic pension benefit for the year ended December 31, 2012 is $1,555.

The weighted-average assumptions used to determine net periodic pension cost in the years ended December 31, 2011, 2010 and 2009 are as follows:

	2011	2010	2009
Discount rate	5.00%	5.50%	6.25%
Expected long-term return on plan assets	8.00%	8.00%	8.00%
Rate of compensation increase	N/A	N/A	N/A

The following table sets forth the benefit payments that we expect to pay from the pension plans in the periods indicated:

Year	Amount
Fiscal 2012	$ 3,035
Fiscal 2013	$ 3,227
Fiscal 2014	$ 3,504
Fiscal 2015	$ 3,385
Fiscal 2016	$ 3,539
Fiscal 2017 – 2021	$ 18,253

We invest plan assets based on a total return on investment approach, pursuant to which the plan assets include a diversified blend of equity and fixed income investments toward a goal of maximizing the long-term rate of return without assuming an unreasonable level of investment risk. We determine the level of risk based on an analysis of plan liabilities, the extent to which the value of the plan assets satisfies the plan liabilities and our financial condition. Our investment policy includes target allocations ranging from 30% to 70% for equity investments, 20% to 60% for fixed income investments and 0% to 50% for cash equivalents. The equity portion of the plan assets represents growth and value stocks of small, medium and large companies. We measure and monitor the investment risk of the plan assets both on a quarterly basis and annually when we assess plan liabilities.

We use a building block approach to estimate the long-term rate of return on plan assets. This approach is based on the capital market principle that the greater the volatility, the greater the return over the long term. An analysis of the historical performance of equity and fixed income investments, together with current market factors such as the inflation and interest rates, are used to help us make the assumptions necessary to estimate a long-term rate of return on plan assets. Once this estimate is made, we review the portfolio of plan assets and make adjustments thereto that we believe are necessary to reflect a diversified blend of equity and fixed income investments that is capable of achieving the estimated long-term rate of return without assuming an unreasonable level of investment risk. We also compare the portfolio of plan assets to those of other pension plans to help us assess the suitability and appropriateness of the plan investments.

We determine our discount rate by performing a yield curve analysis based on a portfolio of high-quality fixed income investments with various maturities. Our expected future benefit payments are discounted to their present value at the appropriate yield curve rate to generate the overall discount rate for pension obligations.

In 2011 and 2010, we made no contributions to the ESI Excess Pension Plan or the ESI Pension Plan. We do not expect to make any contributions to either the ESI Pension Plan or the ESI Excess Pension Plan in 2012.

Retirement Savings Plan. Our ESI 401(k) Plan, a defined contribution plan, covers substantially all of our employees. All of our contributions under the ESI 401(k) Plan are in the form of cash to plan investment options directed by the participant.

Our ESI Excess Savings Plan, a nonqualified, unfunded deferred compensation plan, covers a select group of our management. The plan provided for salary deferral of contributions that the participants were unable to make under the ESI 401(k) Plan and our contributions that could not be paid under the ESI 401(k) Plan due to federal statutory limits on the amount that an employee could contribute under a defined contribution plan. Effective for plan years beginning on and after January 1, 2008, we froze the ESI Excess Savings Plan, such that employees may no longer make salary deferrals and we will no longer make contributions under the ESI Excess Savings Plan. Amounts previously credited to an employee under the ESI Excess Savings Plan will, however, continue to accrue interest in accordance with the terms of the ESI Excess Savings Plan until those amounts are distributed pursuant to the plan's terms.

The costs of providing the benefits under the ESI 401(k) Plan and ESI Excess Savings Plan (including certain administrative costs of the plans) were:

- $5,308 in the year ended December 31, 2011;
- $5,063 in the year ended December 31, 2010; and
- $4,430 in the year ended December 31, 2009.

14. Commitments and Contingencies

As part of our normal operations, one of our insurers issues surety bonds for us that are required by various education authorities that regulate us. We are obligated to reimburse our insurer for any of those surety bonds that are paid by the insurer. As of December 31, 2011, the total face amount of those surety bonds was approximately $33,700.

We are also subject to various claims and contingencies, including those related to litigation, business transactions, guarantee arrangements and employee-related matters, among others. We record a liability for those claims and contingencies, if it is probable that a loss will result and the amount of the loss can be reasonably estimated. Although we believe that our estimates related to any claims and contingencies are reasonable, we cannot make any assurances with regard to the accuracy of our estimates, and actual results could differ materially. As of December 31, 2011, our recorded liability for these claims and contingencies was approximately $36,000 and is primarily included in Other liabilities on our Consolidated Balance Sheet. The substantial majority of this amount pertains to our guarantee arrangements.

We also considered whether additional losses for claims and contingencies were reasonably possible, could be estimated and might be material to our financial condition, results of operations or cash flows. With respect to our guarantee arrangements under the PEAKS Guarantee, the 2009 RSA and the risk sharing agreement that we entered into in 2007 (the "2007 RSA" and, collectively with the PEAKS Guarantee and the 2009 RSA, the "RSAs"), we believe that it is reasonably possible that we may incur losses in an estimated range of $15,000 less than to $10,000 greater than the recorded liability for those contingencies. As with any estimate, as facts and circumstances change, the recorded liability and estimated range of reasonably possible losses could change significantly. With respect to legal proceedings, we determined that we cannot provide an estimate of the possible losses, or the range of possible losses, in excess of the amount, if any, accrued, for various reasons, including but not limited to some or all of the following:

- there are significant factual issues to be resolved;
- there are novel or unsettled legal issues presented;
- the proceedings are in the early stages;
- there is uncertainty as to the likelihood of a class being certified or decertified or the ultimate size and scope of the class;
- there is uncertainty as to the outcome of pending appeals or motions; and
- in many cases, the plaintiffs have not specified damages in their complaint or in court filings.

Litigation. We are subject to various litigation in the ordinary course of our business. We cannot assure you of the ultimate outcome of any litigation involving us. Although we believe that our estimates related to any litigation are reasonable, deviations from our estimates could produce a materially different result. Any litigation alleging violations of education or consumer protection laws and/or regulations, misrepresentation, fraud or deceptive practices may also subject our affected campuses to additional regulatory scrutiny. The following is a description of pending litigation that falls outside the scope of litigation incidental to the ordinary course of our business.

On November 3, 2010, a complaint in a securities class action lawsuit was filed against us and two of our current executive officers in the United States District Court for the Southern District of New York under the following caption: *Operating Engineers Construction Industry and Miscellaneous Pension Fund, Individually and On Behalf of All Others Similarly Situated v. ITT Educational Services, Inc., et al.* (the "Securities Litigation"). On January 21, 2011, the court named the Wyoming Retirement System as the lead plaintiff in the Securities Litigation. On April 1, 2011, an amended complaint was filed in the Securities Litigation under the following caption: *In re ITT Educational Services, Inc. Securities and Shareholder Derivative Litigation*. The amended complaint alleges, among other things, that:

- the defendants violated Section 10(b) and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder by creating and implementing a systemically predatory business model that operated as a fraud or deceit on purchasers of our common stock during the class period by misrepresenting our financials and future business prospects;
- the defendants' misrepresentations and material omissions caused our common stock to trade at artificially inflated prices throughout the class period; and

- the market's expectations were ultimately corrected on August 13, 2010 when the ED published the loan repayment rate of our students under a formula contained in proposed regulations published by the ED on July 26, 2010.

The putative class period in this action is from October 23, 2008 through August 13, 2010. The plaintiff seeks, among other things, the designation of this action as a class action, and an award of unspecified compensatory damages, interest, costs, expenses, attorneys' fees and expert fees. All of the defendants intend to defend themselves vigorously against the allegations made in the complaint.

On November 12, 2010, a complaint in a shareholder derivative lawsuit was filed against three of our current executive officers and all of our current Directors in the United States District Court for the Southern District of New York under the following caption: *Antonio Cosing, Derivatively and On Behalf of ITT Educational Services, Inc. v. Kevin M. Modany, et al.* (the "Cosing Lawsuit"). The complaint alleges, among other things, that from October 23, 2008 through August 13, 2010, the defendants breached their fiduciary duties to us, abused their ability to control and influence us, grossly mismanaged us, caused us to waste corporate assets and were unjustly enriched, by making false and misleading statements and engaging in fraudulent business practices. The complaint seeks, among other things, unspecified damages, equitable and/or injunctive relief, restitution, disgorgement of profits, benefits and other compensation, an order directing us to reform our corporate governance and internal procedures, costs, disbursements and attorneys' fees. All of the individual defendants intend to defend themselves vigorously against the allegations in the complaint. On December 14, 2010, the Cosing Lawsuit was consolidated into the Securities Litigation.

On November 22, 2010, another complaint in a shareholder derivative lawsuit was filed against seven of our current officers and all of our current Directors in the United States District Court for the Southern District of Indiana under the following caption: *Roger B. Orensteen, derivatively on behalf of ITT Educational Services, Inc. v. Kevin M. Modany, et al.* The complaint alleges, among other things, that, from January 2008 through August 2010, the defendants violated Sections 10(b) and 20(a) of the Exchange Act, breached their fiduciary duties to us, abused their ability to control and influence us, grossly mismanaged us, caused us to waste corporate assets and were unjustly enriched, by making false and misleading statements and engaging in fraudulent business practices. The complaint seeks, among other things, unspecified damages, restitution, disgorgement of profits, benefits and other compensation, an order directing us to reform our corporate governance and internal procedures, costs, disbursements and attorneys' fees. All of the individual defendants intend to defend themselves vigorously against the allegations in the complaint.

On December 3, 2010, another complaint in a shareholder derivative lawsuit was filed against two of our current executive officers and all of our current Directors in the United States District Court for the Southern District of New York under the following caption: *J. Kent Gregory, derivatively on behalf of ITT Educational Services, Inc. v. Kevin M. Modany, et al.* (the "Gregory Lawsuit"). The complaint alleges, among other things, that the defendants breached their fiduciary duties to us, were unjustly enriched by us and misappropriated information about us, by making false and misleading statements and engaging in fraudulent business practices. The complaint seeks, among other things, unspecified damages, restitution, disgorgement of profits, benefits and other compensation, an order directing us to reform our corporate governance and internal procedures, costs, disbursements and attorneys' fees. All of the individual defendants intend to defend themselves vigorously against the allegations in the complaint. The Gregory Lawsuit was consolidated into the Cosing Lawsuit on December 13, 2010 and further consolidated into the Securities Litigation on December 14, 2010.

There can be no assurance that the ultimate outcome of these or other actions (including other actions under federal or state securities laws) will not have a material adverse effect on our financial condition, results of operations or cash flows.

Lease Commitments. We lease our non-owned facilities under operating lease agreements. A majority of the operating leases contain renewal options that can be exercised after the initial lease term. Renewal options are generally for periods of one to five years. All operating leases will expire over the next 12 years and we expect that:

- those leases will be renewed or replaced by other leases in the normal course of business;
- we may purchase the facilities represented by those leases; or
- we may purchase or build other replacement facilities.

There are no material restrictions imposed by the lease agreements, and we have not entered into any significant guarantees related to the leases. We are required to make additional payments under the operating lease terms for taxes, insurance and other operating expenses incurred during the operating lease period.

Rent expense under our operating leases was:

- $47,833 in the year ended December 31, 2011;
- $43,777 in the year ended December 31, 2010; and
- $37,987 in the year ended December 31, 2009.

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Future minimum rental payments required under our operating leases that have initial or remaining non-cancelable lease terms in excess of one year as of December 31, 2011 are as follows:

2012	$	49,715
2013		44,207
2014		38,020
2015		25,777
2016		12,766
2017 and thereafter		9,255
	$	179,740

Future minimum rental payments related to equipment leases are not significant.

Guarantees. We entered into the PEAKS Guarantee in connection with the PEAKS Program. Under the PEAKS Guarantee, we guarantee payment of the principal, interest and certain call premiums owed on the PEAKS Senior Debt, and the administrative fees and expenses of the PEAKS Trust. The PEAKS Senior Debt bears interest at a variable rate based on the LIBOR plus an applicable margin and matures in January 2020. The PEAKS Guarantee agreement contains, among other things, representations and warranties and events of default customary for guarantees. In addition, under the PEAKS Program, some or all of the holders of the PEAKS Senior Debt could require us to purchase their PEAKS Senior Debt in certain limited circumstances that pertain to our continued eligibility to participate in Title IV Programs. We believe that the likelihood of those limited circumstances occurring is remote. Our guarantee and purchase obligations under the PEAKS Program remain in effect until the PEAKS Senior Debt and the PEAKS Trust's fees and expenses are paid in full. At such time, we will be entitled to repayment of the amount of any payments made under the PEAKS Guarantee to the extent that funds are remaining in the PEAKS Trust.

The maximum future payments that we could be required to make under the PEAKS Guarantee include:

- up to $300,000 in principal of PEAKS Senior Debt;
- accrued interest on the PEAKS Senior Debt;
- certain call premiums associated with the PEAKS Senior Debt; and
- the fees and expenses of the PEAKS Trust.

We are not able to estimate the undiscounted maximum potential amount of future payments that we could be required to make under the PEAKS Guarantee, because those payments will be affected by:

- the repayment performance of the private education loans made under the PEAKS Program, the proceeds from which will be used to repay the PEAKS Senior Debt and to pay the fees and expenses of the PEAKS Trust;
- the fact that those loans will consist of a large number of loans of individually immaterial amounts;
- the fact that the interest rate on the PEAKS Senior Debt is a variable rate based on the LIBOR plus a margin;
- whether certain call premiums will be payable in connection with the PEAKS Senior Debt; and
- the amount of fees and expenses of the PEAKS Trust, much of which is based on the principal balance of the private education loans held by the PEAKS Trust.

No new private education loans were or will be originated under the PEAKS Program after July 2011, but immaterial amounts related to loans originated prior to that date will be disbursed and purchased through approximately March 2012.

We entered into the 2009 RSA in connection with the 2009 Loan Program. Under the 2009 RSA, we guarantee the repayment of the principal amount (including capitalized origination fees) and accrued interest payable on any private education loans that are charged off above a certain percentage of the private education loans made under the 2009 Loan Program, based on the annual dollar volume. The total initial principal amount of private education loans that the 2009 Entity purchased under the 2009 Loan Program was approximately $141,000. No new private education loans were or will be originated under the 2009 Loan Program after December 31, 2011, but immaterial amounts related to loans originated prior to that date will be disbursed and purchased through approximately June 2012. Our obligations under the 2009 RSA will remain in effect until all private education loans made under the 2009 Loan Program are paid in full or charged off. The standard repayment term for a private education loan made under the 2009 Loan Program is ten years, with repayment generally beginning six months after a student graduates or three months after a student withdraws or is terminated from his or her program of study.

Pursuant to the 2009 RSA, we are required to maintain collateral to secure our guarantee obligation in an amount equal to a percentage of the outstanding balance of the private education loans disbursed to our students under the 2009 Loan Program. As of December 31, 2011, the total collateral maintained in a restricted bank account was not

material. This amount is included in Other assets on our Consolidated Balance Sheet as of December 31, 2011. The 2009 RSA also requires that we comply with certain covenants, including that we maintain certain financial ratios which are measured on a quarterly basis. We were in compliance with these covenants as of December 31, 2011.

We entered into the 2007 RSA with a different lender for certain private education loans that were made to our students in 2007 and early 2008. We guarantee the repayment of any private education loans that the lender charges off above a certain percentage of the total dollar volume of private education loans made under the 2007 RSA. We will have the right to pursue repayment from the borrowers for those charged off private education loans under the 2007 RSA that we pay to the lender pursuant to our guarantee obligation. The 2007 RSA was terminated effective February 22, 2008, such that no private education loans have been or will be made under the 2007 RSA after that date. Based on information that we have received to date from the lender, we believe that the total original principal amount of private education loans made under the 2007 RSA, net of amounts refunded under those loans, was approximately $180,000. Our obligations under the 2007 RSA remain in effect until all private education loans under the 2007 RSA are paid in full or charged off by the lender. The standard repayment term for a private education loan made under the 2007 RSA is ten years, with repayment generally beginning six months after a student graduates, withdraws or is terminated from his or her program of study.

As of December 31, 2011, we had made guarantee payments that were not material under the RSAs. At the end of each reporting period, we assess whether we should recognize a contingent liability related to our guarantees under the RSAs and, if so, in what amount. Our recorded liability for the obligations related to the guarantee arrangements under the RSAs is included in Other liabilities on our Consolidated Balance Sheets.

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SCHEDULE II

ITT EDUCATIONAL SERVICES, INC.
VALUATION AND QUALIFYING ACCOUNTS
FOR THE THREE YEARS ENDED DECEMBER 31, 2011
(Amounts in thousands)

Description	Balance at Beginning of Period	Charged to Expenses	Write-offs	Balance at End of Period
Allowance for Doubtful Accounts:				
Year Ended December 31, 2011	$ 7,526	$ 61,308	($ 59,659)	$ 9,175
Year Ended December 31, 2010	$ 25,227	$ 86,935	($ 104,636)	$ 7,526
Year Ended December 31, 2009	$ 16,064	$ 81,983	($ 72,820)	$ 25,227

ITT EDUCATIONAL SERVICES, INC.
QUARTERLY FINANCIAL RESULTS
FOR 2011 AND 2010
(Amounts in thousands, except per share data)
(Unaudited)

	Three Months Ended				
	March 31	June 30	Sept. 30	Dec. 31	Year
2011					
Revenue	$ 383,171	$ 387,877	$ 360,638	$ 368,263	$ 1,499,949
Cost of educational services	137,926	142,272	141,262	131,605	553,065
Student services and administrative expenses	104,583	115,626	109,512	110,087	439,808
Operating income	140,662	129,979	109,864	126,571	507,076
Interest income	835	790	716	561	2,902
Interest (expense)	(557)	(507)	(378)	(383)	(1,825)
Income before provision for income taxes	140,940	130,262	110,202	126,749	508,153
Provision for income taxes	55,554	51,262	42,884	50,701	200,401
Net income	$ 85,386	$ 79,000	$ 67,318	$ 76,048	$ 307,752
Earnings per share:					
Basic	$ 2.94	$ 2.88	$ 2.51	$ 2.89	$ 11.22
Diluted	$ 2.91	$ 2.85	$ 2.48	$ 2.87	$ 11.13
2010					
Revenue	$ 383,957	$ 401,849	$ 400,597	$ 410,126	$ 1,596,529
Cost of educational services	134,382	133,763	134,478	135,232	537,855
Student services and administrative expenses	106,960	110,954	114,706	112,505	445,125
Operating income	142,615	157,132	151,413	162,389	613,549
Interest income	709	533	634	628	2,504
Interest (expense)	(420)	(514)	(490)	(494)	(1,918)
Income before provision for income taxes	142,904	157,151	151,557	162,523	614,135
Provision for income taxes	55,453	61,111	58,380	65,025	239,969
Net income	$ 87,451	$ 96,040	$ 93,177	$ 97,498	$ 374,166
Earnings per share:					
Basic	$ 2.50	$ 2.82	$ 2.84	$ 3.16	$ 11.28
Diluted	$ 2.46	$ 2.78	$ 2.82	$ 3.14	$ 11.17

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SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

ITT Educational Services, Inc.

Dated: February 24, 2012

By: /s/ Kevin M. Modany
Kevin M. Modany
Chairman and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the registrant and in the capacities and on the dates indicated.

Signature	Title	Date
/s/ Kevin M. Modany Kevin M. Modany	Chairman, Chief Executive Officer and Director (Principal Executive Officer)	February 24, 2012
/s/ Daniel M. Fitzpatrick Daniel M. Fitzpatrick	Executive Vice President and Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	February 24, 2012
/s/ John F. Cozzi John F. Cozzi	Director	February 24, 2012
/s/ John E. Dean John E. Dean	Director	February 24, 2012
/s/ James D. Fowler, Jr. James D. Fowler, Jr.	Director	February 24, 2012
/s/ Joanna T. Lau Joanna T. Lau	Director	February 24, 2012
/s/ Samuel L. Odle Samuel L. Odle	Director	February 24, 2012
/s/ Lloyd G. Waterhouse Lloyd G. Waterhouse	Director	February 24, 2012
/s/ Vin Weber Vin Weber	Director	February 24, 2012
/s/ John A. Yena John A. Yena	Director	February 24, 2012

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INDEX TO EXHIBITS

Exhibit No.		Description	Incorporated by Reference From Form	Exhibit	Filing Date	Filed Herewith
3.1		Restated Certificate of Incorporation, as Amended to Date	10-Q*	3.1	7/29/05	
3.2		Restated By-Laws, as Amended to Date	8-K*	3.2	7/22/11	
10.1	**	1997 ITT Educational Services, Inc. Incentive Stock Plan	10-Q*	10.8	8/8/97	
10.2	**	First Amendment to the 1997 ITT Educational Services, Inc. Incentive Stock Plan	10-Q*	10.38	7/17/03	
10.3	**	Second Amendment to 1997 ITT Educational Services, Inc. Incentive Stock Plan	10-Q*	10.58	10/26/06	
10.4	**	1999 Outside Directors Stock Option Plan	S-8***	4.3	8/10/99	
10.5	**	First Amendment to the 1999 Outside Directors Stock Option Plan	10-Q*	10.37	7/17/03	
10.6	**	Second Amendment to the 1999 Outside Directors Stock Option Plan	10-Q*	10.42	4/27/04	
10.7	**	Third Amendment to the 1999 Outside Directors Stock Option Plan	8-K*	10.47	1/28/05	
10.8	**	2006 ITT Educational Services, Inc. Equity Compensation Plan	8-K*	10.55	5/10/06	
10.9	**	First Amendment to 2006 ITT Educational Services, Inc. Equity Compensation Plan	10-Q*	10.57	10/26/06	
10.10	**	Second Amendment to 2006 ITT Educational Services, Inc. Equity Compensation Plan	10-Q*	10.61	7/26/07	
10.11	**	Third Amendment to 2006 ITT Educational Services, Inc. Equity Compensation Plan	10-K*	10.32	2/18/11	
10.12	**	Fourth Amendment to 2006 ITT Educational Services, Inc. Equity Compensation Plan				X
10.13	**	Form of Nonqualified Stock Option Award Agreement under the 2006 ITT Educational Services, Inc. Equity Compensation Plan (for use prior to November 24, 2010)	10-Q*	10.53	5/1/06	

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10.14	**	Form of Nonqualified Stock Option Award Agreement under the 2006 ITT Educational Services, Inc. Equity Compensation Plan (for use November 24, 2010 – January 23, 2012)	10-K*	10.35	2/18/11	
10.15	**	Form of Nonqualified Stock Option Award Agreement under the 2006 ITT Educational Services, Inc. Equity Compensation Plan (for use after January 23, 2012)				X
10.16	**	Form of Restricted Stock Unit Award Agreement under the 2006 ITT Educational Services, Inc. Equity Compensation Plan (for use prior to January 17, 2011)	10-Q*	10.59	7/26/07	
10.17	**	Form of Restricted Stock Unit Award Agreement under the 2006 ITT Educational Services, Inc. Equity Compensation Plan (for use January 17, 2011 – January 23, 2012)	10-K*	10.33	2/18/11	
10.18	**	Form of Restricted Stock Unit Award Agreement under the 2006 ITT Educational Services, Inc. Equity Compensation Plan (for use after January 23, 2012)				X
10.19	**	Form of Restricted Stock Award Agreement under the 2006 ITT Educational Services, Inc. Equity Compensation Plan (for use after November 24, 2010)	10-K*	10.34	2/18/11	
10.20	**	Restated ESI 401(k) Plan				X
10.21	**	ESI Excess Savings Plan – 2008 Restatement	10-K*	10.15	2/21/08	
10.22	**	Restated ESI Pension Plan				X
10.23	**	ESI Excess Pension Plan – 2008 Restatement	10-K*	10.19	2/21/08	
10.24	**	First Amendment to ESI Excess Pension Plan – 2008 Restatement	10-Q*	10.23	7/24/08	
10.25	**	ESI Executive Deferred Bonus Compensation Plan – 2008 Restatement	10-K*	10.22	2/21/08	
10.26	**	ESI Non-Employee Directors Deferred Compensation Plan – 2008 Restatement	10-K*	10.21	2/21/08	

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10.27	**	ITT Educational Services, Inc. Senior Executive Severance Plan	10-Q*	10.26	10/25/07	
10.28	**	First Amendment to the ITT Educational Services, Inc. Senior Executive Severance Plan				X
10.29	**	Summary of Certain Director and Executive Compensation				X
10.30		Trade Name and Service Mark License Agreement between ITT/ESI and ITT Sheraton Corporation	10-Q*	10.11	7/27/98	
10.31		First Amendment to Trade Name and Service Mark License Agreement between ITT/ESI and ITT Sheraton Corporation	10-K*	10.18	2/19/99	
10.32		Second Amendment to Trade Name and Service Mark License Agreement between ITT/ESI and ITT Manufacturing Enterprises, Inc. (assignee of ITT Sheraton Corporation)	10-Q*	10.24	10/31/00	
10.33		Second Amended and Restated Credit Agreement, dated as of January 11, 2010 among ITT Educational Services, Inc., JPMorgan Chase Bank, N.A. and Bank of America, N.A.	8-K*	10.64	1/12/10	
10.34		First Amendment to Second Amended and Restated Credit Agreement, dated as of February 3, 2010, among ITT Educational Services, Inc., JPMorgan Chase Bank, N.A. and Bank of America, N.A.	10-K*	10.36	2/19/10	
10.35		Second Amendment to Second Amended and Restated Credit Agreement, dated as of August 10, 2010, among ITT Educational Services, Inc., JPMorgan Chase Bank, N.A. and Bank of America, N.A.	10-Q*	10.37	10/22/10	
10.36		Third Amendment to Second Amended and Restated Credit Agreement, dated as of June 27, 2011, among ITT Educational Services, Inc., JP Morgan Chase Bank, N.A. and Bank of America, N.A.	8-K*	10.41	6/28/11	
21		Subsidiaries				X

23	Consent of Independent Registered Public Accounting Firm	X
31.1	Chief Executive Officer's Certification Pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934	X
31.2	Chief Financial Officer's Certification Pursuant to Rule 13a-14(a)/15d-14(a) of the Securities Exchange Act of 1934	X
32.1	Chief Executive Officer's Certification Pursuant to 18 U.S.C. Section 1350	X
32.2	Chief Financial Officer's Certification Pursuant to 18 U.S.C. Section 1350	X
101	The following materials from ITT Educational Services, Inc.'s Annual Report on Form 10-K for the year ended December 31, 2011, formatted in XBRL (eXtensible Business Reporting Language): (i) Consolidated Balance Sheets; (ii) Consolidated Statements of Income; (iii) Consolidated Statements of Cash Flows; (iv) Consolidated Statements of Shareholders' Equity; (v) Notes to Consolidated Financial Statements; and (vi) Financial Statement Schedule II	X

* SEC File No. 001-13144
** The indicated exhibit is a management contract, compensatory plan or arrangement required to be filed by Item 601 of Regulation S-K.
*** Registration No. 333-84871

Exhibit 10.12

FOURTH AMENDMENT TO THE 2006 ITT EDUCATIONAL SERVICES, INC. EQUITY COMPENSATION PLAN

WHEREAS, the shareholders of ITT Educational Services, Inc. (the "Company") approved the 2006 ITT Educational Services, Inc. Equity Compensation Plan (the "Plan") on May 9, 2006; and

WHEREAS, the Plan was subsequently amended by a First Amendment, which was adopted by the Board of Directors of the Company (the "Board") on October 24, 2006, in certain respects not requiring shareholder approval; and

WHEREAS, the Plan was further amended by a Second Amendment, which was adopted by the Board on July 24, 2007, in certain respects not requiring shareholder approval; and

WHEREAS, the Plan was further amended by a Third Amendment, which was adopted by the Board on November 24, 2010, except for Sections 8, 10 and 11 which were adopted by the Board on January 17, 2011, in certain respects not requiring shareholder approval; and

WHEREAS, the Compensation Committee of the Board has made a final binding determination regarding the proper interpretation of the definition of "Change in Control" under the Plan with respect to the impact of certain types of transactions and has recommended that the Board adopt an amendment to the Plan reflecting such determination; and

WHEREAS, the Board now desires to further amend the Plan in certain respects that do not require shareholder approval.

NOW, THEREFORE, the Plan is hereby amended as follows:

1. Section 2(g)(i) of the Plan is hereby amended to read as follows:

(g) "Change in Control" means the occurrence of one or more of the following:

(i) (A) The acquisition by any person (within the meaning of Section 13(d) of the Exchange Act), other than the Company, a Subsidiary or any employee benefit plan sponsored by the Company or a Subsidiary, of a beneficial ownership directly or indirectly of 20 percent or more of the outstanding common shares of the Company; provided, however, that an increase in the percentage of the outstanding common shares of the Company beneficially owned by any person (within the meaning of Section 13(d) of the Exchange Act) solely as a result of a reduction in the number of shares of the Company's common stock then outstanding due to the repurchase by the Company of such common stock shall not constitute a Change in Control; provided further that, for the avoidance of doubt, any subsequent acquisition of shares of Company common stock by any person (within the meaning of Section 13(d) of the Exchange Act) as a result of which immediately following such acquisition such person beneficially owns

(within the meaning of Section 13(d) of the Exchange Act) 20 percent or more of the outstanding common shares of the Company shall constitute a Change in Control; or (B) the purchase by any person (within the meaning of Section 13(d) of the Exchange Act), other than the Company, a Subsidiary or any employee benefit plan sponsored by the Company or a Subsidiary, of shares pursuant to a tender offer or exchange offer to acquire common stock of the Company (or securities convertible into common stock) for cash, securities or any other consideration, provided that after consummation of the offer, the person in question is the beneficial owner (as such term is defined in Rule 13d-3 under the Exchange Act), directly or indirectly, of 15 percent or more of the outstanding common stock of the Company (calculated as provided in paragraph (d) of Rule 13d-3 under the Exchange Act in the case of rights to acquire common stock);

2. This Fourth Amendment to the Plan shall become effective upon its adoption by the Board.

Adopted by the Board of the Directors of ITT
Educational Services, Inc. on January 23, 2012

Exhibit 10.15

**2006 ITT EDUCATIONAL SERVICES, INC.
EQUITY COMPENSATION PLAN
NONQUALIFIED STOCK OPTION AGREEMENT**

This Agreement ("Agreement"), effective as of the ______ day of __________ , 2______ ("Grant Date"), is by and between ITT Educational Services, Inc. ("Company") and ______ ("Grantee").

The Grantee now serves the Company or a Subsidiary as either an Employee or a Non-Employee Director, and in recognition of the Grantee's valued services, the Company, through the Committee, desires to provide an opportunity for the Grantee to increase his or her stock ownership in the Company pursuant to the provisions of the 2006 ITT Educational Services, Inc. Equity Compensation Plan ("Plan").

In consideration of the terms and conditions of this Agreement and the Plan, the terms of which are incorporated as a part of this Agreement, the parties agree as follows:

1. Grant of Option. As of the date indicated above, the Company hereby grants to the Grantee the right and option ("Option") to purchase all or any part of an aggregate of ______ Shares.

2. Nonqualified Status. This Option is a nonqualified stock option and is not intended to qualify as an incentive stock option under Code Section 422.

3. Exercise Price. The Exercise Price of each Share covered by this Option is $______ per Share.

4. Vesting of Option. Subject to the terms of the Plan and this Agreement, including paragraphs 5 and 6 below, the Grantee will vest in and be entitled to exercise this Option at the time the Committee selects below:

______(a) this Option shall become exercisable as to ______ **[insert fraction, such as 1/3]** of the Shares on a cumulative basis, on each of the ______ **[insert anniversary dates, such as first, second, and third]** anniversaries of the Grant Date (time-based vesting (graded) –at least one year from the Grant Date);

______(b) on ______________, 2______ (time-based vesting (cliff) – at least one year from the Grant Date);

______(c) on the date or dates the Grantee achieves the Performance Measures, as specified in Attachment A to this Agreement (performance-based vesting – at least one year from the Grant Date).

5. Term of Option. This Option expires at the close of business on ______, 2______ (not to exceed seven years from the Grant Date), unless it expires earlier pursuant to the following rules:

(a) Upon termination by the Company of the Grantee's employment or service without Cause, or upon termination of employment or service by the Grantee for a reason other than death or Disability (i) the Grantee will forfeit all of the Shares subject to this Option that had not yet become exercisable as of the date of his or her termination, and (ii) Shares subject to this Option that were exercisable as of the date of the Grantee's termination will remain exercisable until the earlier of (A) the date 90 days after the date of termination, or (B) the date this Option otherwise expires in accordance with the terms of the Plan and this Agreement; and

(b) Upon termination of the Grantee's employment or service for Cause, the Grantee will immediately forfeit this Option entirely, to the extent it remains unexercised (including as to those Shares subject to this Option that are otherwise exercisable as of the date of his or her termination).

6. Termination for Death or Disability. The effect of the Grantee's termination of employment or service for death or Disability depends on whether this Option is subject to a time-based or performance-based vesting schedule (as specified in paragraph 4 of this Agreement):

(a) Time-Based Vesting Schedule. Upon the Grantee's death or Disability, all of the Grantee's Options with time-based vesting provisions will become immediately exercisable and will remain exercisable until the earlier of (i) the date three years after the date of the Grantee's death or Disability; or (ii) the date the Options expire in accordance with their terms.

(b) Performance-Based Vesting Schedule. Upon the Grantee's death or Disability, all of the Grantee's Options with performance-based vesting provisions are subject to the following two rules: (i) the Grantee will forfeit all such Options that are not exercisable as of the date of the Grantee's death or Disability; and (ii) Options that were exercisable as of the date of the Grantee's death or Disability will remain exercisable until the earlier of (A) the date three years after the date of the Grantee's death or Disability, or (B) the date the Options expire in accordance with their terms.

7. Exercise. The Grantee may exercise this Option, to the extent vested, by delivering a written notice to the Company, or the Company's designee, as the Company specifies in writing to the Grantee. The Grantee's written notice must: (i) set forth the number of Shares for which he or she is exercising the Option, and (ii) specify the method of payment for the Exercise Price. The Grantee may pay the Exercise Price by any of the following means:

(a) in cash or its equivalent;

(b) by tendering (either actually or constructively by attestation) Shares having an aggregate Fair Market Value at the time of exercise equal to the Exercise Price that the Grantee has held for at least ______(______) months;

(c) Cashless Exercise; or

(d) by a combination of any of the permitted methods of payment in subparagraphs (a), (b), and (c) above.

8. Non-Assignability. Except as provided in the Plan or this Agreement, the Option is not assignable or transferable by the Grantee otherwise than by will or by the laws of descent and distribution and is exercisable, during the Grantee's lifetime, only by the Grantee.

9. Change in Control. As provided in Section 19 of the Plan, upon the occurrence of a Change in Control, this Option may become exercisable prior to time provided for under the vesting schedule in paragraph 4.

10. Withholding. Prior to the delivery of any Shares pursuant to this Option, the Company has the right and power to deduct or withhold, or require the Grantee to remit to the Company, an amount sufficient to satisfy all applicable tax withholding requirements. The Company will require the Grantee to satisfy all or part of the tax withholding obligations in connection with this Option by (a) having the Company withhold otherwise deliverable Shares, or (b) delivering to the Company Shares already owned for a period of at least six (6) months (or such longer or shorter period as may be required to avoid a charge to earnings for financial accounting purposes), in each case having a value equal to the amount to be withheld, which shall not exceed the amount determined by the applicable minimum statutory tax withholding rate (or such other rate as will not result in a negative accounting impact). For these purposes, the value of the Shares to be withheld or delivered will be equal to the Fair Market Value as of the date that the taxes are required to be withheld.

11. Notices. All notices and other communications required or permitted under this Agreement shall be written and delivered personally or sent by registered or certified first-class mail, postage prepaid and return receipt required, addressed as follows: if to the Company, to the Company's executive offices in Carmel, Indiana, and if to the Grantee or his or her successor, to the address last furnished by the Grantee to the Company. Notwithstanding the foregoing, though, the Company may authorize notice by any other means it deems desirable or efficient at a given time, such as notice by facsimile or electronic mail (e-mail).

12. No Employment Rights. Neither the Plan nor this Agreement confers upon the Grantee any right to continue in the employ or service of the Company or a Subsidiary or interferes in any way with the right of the Company or a Subsidiary to terminate the Grantee's employment or service at any time.

13. Defined Terms. All of the defined terms, or terms that begin with capital letters and have a special meaning for purposes of this Agreement, have the meaning ascribed to them in this Agreement. All defined terms to which this Agreement does not ascribe a meaning have the meaning ascribed to them in the Plan.

14. Plan Controlling. The terms and conditions set forth in this Agreement are subject in all respects to the terms and conditions of the Plan, which are controlling. All determinations and interpretations of the Committee are binding and conclusive upon the Grantee and his or her legal representatives. The Grantee agrees to be bound by the terms and provisions of the Plan. The Grantee further acknowledges and agrees that, as consideration for this Option, the term "Change in Control" applicable to all Awards (as defined in the Plan) held by the Grantee and issued or granted prior to the date hereof shall have the meaning set forth in the Plan as of the date hereof.

The Company and the Grantee have executed this Agreement as of the date first above written.

____

[GRANTEE SIGNATURE]
Print Name:______________________

ITT EDUCATIONAL SERVICES, INC.
By: ______________________________
Print Name: ______________________________
Title: ______________________________

ATTACHMENT A
TO
NONQUALIFIED STOCK OPTION AGREEMENT

PERFORMANCE-BASED VESTING

I. Performance Measures and Beginning of Performance Period

Pursuant to the terms of the Plan and paragraph 4 of this Agreement, the Grantee will vest in this Option only upon the achievement, under the terms applicable in part II below and within the Performance Period that begins on the date specified in this part I, of the following Performance Measures: **[specify the applicable Performance Measures and the first day of the Performance Period]**:

____
____
____
____
____
____

II. Performance Period (Vesting Schedule)

The Performance Period, or vesting schedule, that the Committee selects below applies to the Grantee's Option:

___1. Prorated Vesting. The Performance Period for this Option is years (at least one), beginning on the date specified in part I above. After the Performance Period expires, the Committee will determine the percentage of achievement for the Performance Measures in part I above. Based upon that determination, the Grantee will vest in a percentage of Shares subject to this Option in accordance with the following schedule **[below is an example]**:

PERCENTAGE ACHIEVEMENT OF PERFORMANCE MEASURES	PERCENTAGE OF SHARES THAT VEST
Below 85%	0%
At least 85% but less than 90%	25%
At least 90% but less than 95%	50%
At least 95% but less than 100%	75%
At least 100%	100%

___2. Graded Vesting. The Performance Period for this Option is ______ years (more than one), with the first year beginning on the date specified in part I above and each subsequent year beginning on its anniversary. After each year of the Performance Period, as specified below, the Committee will determine whether the Performance Measures applicable to the period were achieved, as specified in part I above. Based upon that determination, the Committee will determine whether the Grantee vested in the correlating fraction of this Option for that period, all in accordance with the following schedule **[below is an example]**:

YEAR OF THE PERFORMANCE PERIOD	FRACTION OF S THAT VES
The first year	1/3
The second year	1/3
The third year	1/3

___3. Cliff Vesting. The Performance Period for this Option is ______ years (at least one), beginning on the date specified in part I above. After the Performance Period expires, the Committee will determine whether the Performance Measures specified in part I above were achieved. If the Performance Measures were achieved in full, the Grantee will vest in this entire Option. If the Performance Measures were not achieved in full, the Grantee will forfeit this entire Option.

Exhibit 10.18

2006 ITT EDUCATIONAL SERVICES, INC.
EQUITY COMPENSATION PLAN
RESTRICTED STOCK UNIT AWARD AGREEMENT
(TIME-BASED VESTING)

This Agreement ("Agreement"), effective as of the ______ day of ______, 2______ ("Grant Date"), is by and between ITT Educational Services, Inc. ("Company") and ______ ("Grantee").

The Grantee now serves the Company or a Subsidiary as either an Employee or a Non-Employee Director, and in recognition of the Grantee's valued services, the Company, through the Committee, desires to provide an opportunity for the Grantee to receive an award, pursuant to the provisions of the 2006 ITT Educational Services, Inc. Equity Compensation Plan ("Plan"), the value of which is based on the Company's stock, further aligning the Grantee's interests with those of the Company's stockholders.

In consideration of the terms and conditions of this Agreement and the Plan, the terms of which are incorporated as a part of this Agreement, the parties agree as follows:

1. Grant of Restricted Stock Units. The Company hereby awards the Grantee ______ Restricted Stock Units.

2. Vesting/Period of Restriction. Subject to the terms of the Plan and this Agreement, including paragraph 6 below, the Period of Restriction will expire, and all of the Restricted Stock Units subject to this Award will become fully vested, [on ______, 2______] [as to ______ [**insert fraction, such as 1/3**] of the Restricted Stock Units on a cumulative basis, on each of the [**insert anniversary dates, such as first, second and third**] anniversaries of the Grant Date] (time-based restriction – at least one year).

3. Non-transferability. Except as otherwise provided in this Agreement or the Plan, the Grantee may not sell, assign, transfer, pledge or otherwise dispose of or encumber any of the Restricted Stock Units, or any interest therein. Any purported sale, assignment, transfer, pledge or other disposition or encumbrance in violation of this Agreement or the Plan will be void and of no effect. The Restricted Stock Units shall be subject to forfeiture until the Grantee becomes vested in the Award according to the schedule set forth in paragraph 2 of this Agreement.

4. Settlement and Payment of the Award. The Restricted Stock Units subject to this Award shall be settled on the last day of the Period of Restriction (the "Settlement Date"). As soon as administratively practicable thereafter, payment of the Restricted Stock Units subject to this Award shall be made; provided, however, that payment shall be made not later than the 15th day of the third month following the Settlement Date. The Restricted Stock Units subject to this Award shall be settled and paid in [Shares, in the amount of one Share for each Restricted Stock Unit being settled, either by delivering one or more certificates for such Shares or by entering such Shares in book entry form, as determined by the Company in its discretion] [cash, in an amount equal to [the Fair Market Value of a Share on the Settlement Date] [the average of the Fair Market Value of a Share over the ______ trading days prior to the Settlement Date], multiplied by the number of Restricted Stock Units being settled], subject to paragraph 8 below.

5. Limitations on Rights. The Restricted Stock Units do not provide the Grantee with any rights of a stockholder of the Company. The Grantee shall have no rights as a stockholder of the Company, no rights to regular, periodic cash dividends or dividend equivalents and no voting rights with respect to the Restricted Stock Units or any Shares issuable in respect of such Restricted Stock Units, until Shares, if any, are actually delivered to and held of record by the Grantee. Until any Restricted Stock Units are actually paid, the Restricted Stock Units will be unfunded, unsecured obligations of the Company.

6. Termination of Employment or Service. Upon termination of the Grantee's employment or service due to death or Disability, the Period of Restriction with respect to the Restricted Stock Units will lapse immediately, and the Restricted Stock Units will be settled immediately thereafter and paid immediately thereafter in the form specified in paragraph 4 of this Agreement. Upon termination of the Grantee's employment or service for any reason other than death or Disability, the Grantee will forfeit immediately after the termination of employment or service all of his or her Restricted Stock Units that are unvested as of the date of termination of employment or service.

7. Change in Control. As provided in Section 19 of the Plan, upon the occurrence of a Change in Control, the restrictions applicable to this Award of Restricted Stock Units may lapse before the expiration of the Period of Restriction in paragraph 2.

8. Withholding. Prior to the delivery of any Shares or cash pursuant to this Award, the Company has the right and power to deduct or withhold, or require the Grantee to remit to the Company, an amount sufficient to satisfy all applicable tax withholding requirements, which shall not exceed the amount determined by the applicable minimum statutory tax withholding rate (or such other rate as will not result in a negative accounting impact). [**Use if Shares to be delivered upon settlement:** The Company will require the Grantee to satisfy all or part of the tax withholding obligations in connection with this Award by (a) having the Company withhold otherwise deliverable Shares, or (b) delivering to the Company Shares already owned for a period of at least six (6) months (or such longer or shorter period as may be required to avoid a charge to earnings for financial accounting purposes), in each case having a value equal to the amount to be withheld. For these purposes, the value of the Shares to be withheld or delivered will be equal to the Fair Market Value as of the date that the taxes are required to be withheld.]

9. Notices. All notices and other communications required or permitted under this Agreement shall be written and delivered personally or sent by registered or certified first-class mail, postage prepaid and return receipt required, addressed as follows: if to the Company, to the Company's executive offices in Carmel, Indiana, and if to the Grantee or his or her successor, to the address last furnished by the Grantee to the Company. Notwithstanding the foregoing, though, the Company may authorize notice by any other means it deems desirable or efficient at a given time, such as notice by facsimile or electronic mail (e-mail).

10. No Employment Rights. Neither the Plan nor this Agreement confers upon the Grantee any right to continue in the employ or service of the Company or a Subsidiary or interferes in any way with the right of the Company or a Subsidiary to terminate the Grantee's employment or service at any time.

11. Defined Terms. All of the defined terms, or terms that begin with capital letters and have a special meaning for purposes of this Agreement, have the meaning ascribed to them in this Agreement. All defined terms to which this Agreement does not ascribe a meaning have the meaning ascribed to them in the Plan.

12. Plan Controlling. The terms and conditions set forth in this Agreement are subject in all respects to the terms and conditions of the Plan, which are controlling. All determinations and interpretations of the Company are binding and conclusive upon the Grantee and his or her legal representatives. The Grantee agrees to be bound by the terms and provisions of the Plan. The Grantee further acknowledges and agrees that, as consideration for this Award, the term "Change in Control" applicable to all Awards (as defined in the Plan) held by Grantee and issued or granted prior to the date hereof shall have the meaning set forth in the Plan as of the date hereof.

The Company and the Grantee have executed this Agreement as of the date first above written.

____

[GRANTEE SIGNATURE]
Print Name: ______________________________

ITT EDUCATIONAL SERVICES, INC.
By: ______________________________
Print Name: ______________________________
Title: ______________________________

Exhibit 10.20

ESI 401(k) PLAN

2012 Restatement

ESI 401(k) PLAN

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ESI 401(k) PLAN

ARTICLE I
INTRODUCTION AND PURPOSE

The name of this Plan is the ESI 401(k) Plan. The Plan is a continuation and complete restatement of the Plan originally established effective May 16, 1998. Except as otherwise provided in the Plan, the effective date of the Plan, as restated, is January 1, 2012. The Plan was established to benefit employees of ITT Educational Services, Inc. Benefits under the Plan are comprised of benefits accrued under the Plan and benefits transferred from the ITT 401(k) Retirement Savings Plan to the Plan.

Participation in the Plan is available, as set forth in this Plan, to eligible employees of ESI and of such Associated Companies of ESI as may become Participating Employers under the Plan.

The Plan is a defined contribution plan under ERISA and as such, is subject to the provisions of Titles I, II, and III, but not Title IV, of ERISA. Titles I, II, and III of ERISA include requirements for covered plans governing reporting, disclosure, participation, vesting, fiduciary responsibility, and enforcement. Title IV provides for plan termination insurance by the Federal government's Pension Benefit Guaranty Corporation. This insurance does not apply to defined contribution plans such as this Plan.

Purpose of the Plan:

The Plan is designed to:

- supplement retirement income by encouraging Employees to save on a regular and long-term basis;
- provide additional financial resources for emergencies and financial hardships; and
- provide Employees additional incentives to continue their careers with ESI.

The Company may make contributions without regard to the existence or the amount of current and accumulated earnings and profits. Notwithstanding the foregoing, however, this Plan is designed to qualify as a profit sharing plan for all purposes of the Code.

ARTICLE II
DEFINITIONS

2.1 "**Accounts**" shall mean, with respect to any Member or Deferred Member, his or her Pre-Tax Investment Account, his or her After-Tax Investment Account, his or her Rollover Account, his or her Matching Contribution Account, his or her Retirement Contribution Account, his or her ESOP Account, and his or her ITT Floor Contribution Account.

2.2 **"Actual Contribution Percentage"** shall mean, with respect to a specified group of Employees referred to in Section 6.2, the average of the ratios, calculated separately for each Employee in that group, of (a) the Matching Company Contributions made for a

Plan Year (excluding any Matching Company Contributions forfeited under the provisions of Sections 4.1 and 6.1), to (b) the Employee's Statutory Compensation for that Plan Year provided that, upon the direction of the Committee, Statutory Compensation for a Plan Year shall only be counted if received during the period an Employee is a Member. The Actual Contribution Percentage shall be computed to the nearest one one-hundredth of one percent.

2.3 **"Actual Deferral Percentage"** shall mean, with respect to a specified group of Employees referred to in Section 6.1, the average of the ratios, calculated separately for each Employee in that group, of (a) the Pre-Tax Savings made on the Employee's behalf for a Plan Year (including Pre-Tax Savings returned to a Highly-Compensated Employee under Section 4.1(c) and Pre-Tax Savings returned to any Employee pursuant to Section 4.1(d)), to (b) the Employee's Statutory Compensation for that Plan Year provided that, upon the direction of the Committee, Statutory Compensation for a Plan Year shall only be counted if received during the period an Employee is a Member. The Actual Deferral Percentage shall be computed to the nearest one one-hundredth of one percent of the Employee's Statutory Compensation.

2.4 **"Adjunct Instructor"** shall mean an Employee employed to teach in the residence and online programs on a per academic period basis.

2.5 **"Adjustment Factor"** shall mean the cost-of-living adjustment factor prescribed by the Secretary of the Treasury under Code section 415(d) for calendar years beginning on or after January 1, 1988, and applied to such items and in such manner as the Secretary shall provide.

2.6 **"Annual Dollar Limit"** shall mean $200,000, as adjusted by the Secretary of the Treasury to reflect cost of living adjustments in accordance with Code section 401(a)(17)(B).

2.7 **"Associated Company"** shall mean any subsidiary or other affiliate of ESI that is (a) a component member of a controlled group of corporations (as defined in Code section 414(b)) that includes ESI as a component member, (ii) any trade or business under common control (as defined in Code section 414(c)) with ESI, (iii) any organization (whether or not incorporated) that is a member of an affiliated service group (as defined in Code section 414(m)) that includes ESI, or (iv) any other entity required to be aggregated with ESI pursuant to regulations under Code section 414(o). Notwithstanding the foregoing, for purposes of the preceding sentence and Section 6.4 of the Plan, the definitions of Code sections 414(b) and (c) shall be modified as provided in Code section 415(h).

2.8 **"After-Tax Investment Account"** shall mean that portion of the Trust Fund that, with respect to any Member or Deferred Member, is attributable to (i) basic and supplemental after-tax contributions made to the ITT Plan prior to October 1, 1996, and transferred to the Trust Fund pursuant to Section 14.4, (ii) any amounts transferred from the ITT Plan to the Trust Fund attributable to any after-tax contributions made by the Member or Deferred Member to a qualified Plan and transferred to the ITT Plan pursuant to a Prior Plan Transfer, and (iii) any investment earnings and gains or losses on any of the aforementioned amounts.

2.9 "Basic Pre-Tax Savings" shall mean the contributions made on a Member's behalf that are credited to his or her Pre-Tax Investment Account in accordance with Section 4.1(a)(vii)(A).

2.10 "Beneficiary" shall mean the beneficiary or beneficiaries designated from time to time by the Member or Deferred Member, on a form made available by the Committee for such purpose, to receive, in the event of the Member's or Deferred Member's death, the value of his or her Accounts at the time of his or her death. Except as hereinafter provided, in the case of a Member or Deferred Member who is married, the sole Beneficiary shall be the Member's or Deferred Member's spouse unless the spouse consents in writing on a form witnessed by a notary public to the designation of another person as Beneficiary. In the case of a Member or Deferred Member who incurs a divorce under applicable state law, the Member's or Deferred Member's designation of Beneficiary shall remain valid unless otherwise provided in a Qualified Domestic Relations Order or unless the Member or Deferred Member changes his or her Beneficiary or is subsequently remarried.

If no valid beneficiary designation is in effect at the time of death of the Member, or if no person, persons, or entity so designated survives the Member, the Member's surviving spouse, if any, shall be the Beneficiary; otherwise the Beneficiary shall be the personal representative of the estate of the Member.

2.11 "Board of Directors" shall mean the Board of Directors of ESI or of any successor to ESI by merger, purchase or otherwise.

2.12 "Break in Service" shall mean an event that shall occur as of the Member's Severance Date, if he or she is not reemployed by the Company or an Associated Company within one year after his or her Severance Date. However, if an Employee is absent from work immediately following his or her active employment, irrespective of whether the Employee's employment is terminated, because of a Parental Leave, or a FMLA Leave, a Break in Service shall occur only if the Member does not return to work within two years of his or her Severance Date. A Break in Service shall not occur during an approved leave of absence or during a period of military service that is included in the Employee's Service pursuant to Section 2.56. Notwithstanding the foregoing, solely for purposes of determining service for eligibility purposes, a Break in Service of one year shall occur if an employee who is employed on a temporary or less than full time basis does not complete more than 500 Hours of Service in the 12 month period beginning on the date on which he or she first completes an Hour of Service or any Plan Year beginning thereafter.

2.13 "Code" means the Internal Revenue Code of 1986, as amended from time to time, and interpretive regulations. References to any section of the Code shall include any successor provision thereto.

2.14 **"Committee"** shall mean the committee established hereunder for the purposes of administering the Plan as provided in Article XIII.

2.15 **"Company"** shall mean:

(a) ESI and any other entity succeeding to the business of ESI that assumes the obligations of the Company as specified in the Plan, with respect to its employees; and

(b) any Participating Employer with respect to its Employees.

When used herein, the term Company shall collectively include ESI and any Participating Employer.

2.16 **"Company Matching Contribution Account"** shall mean that portion of the Trust Fund that, with respect to any Member or Deferred Member, is attributable to (i) any Matching Company Contributions made on his or her behalf under this Plan, (ii) any amounts attributable to matching contributions made on his or her behalf and transferred to the Trust Fund from the ITT Plan, and (iii) any investment earnings and gains or losses on any of the aforementioned amounts.

2.17 **"Continuous Service"** shall mean the aggregate period of time during which the employment relationship exists between an Employee and ESI or an Associated Company, determined as follows:

(a) The period of time beginning on the date an Employee first performs an Hour of Service and ending on the Employee's Severance from Service date.

(b) Any Period of Severance by reason of a quit, discharge or retirement, of less than 12 months; provided, however, that if an Employee is absent from service for a reason other than a quit, discharge, or retirement and subsequently incurs a Severance from Service as a result of a quit, discharge, or retirement, the Period of Severance shall be credited only if the Employee returns to ESI's or the Associated Company's service on or before the first anniversary of the date the Employee was first absent from service.

(c) Any period of time beginning on the date the Employee first performs an Hour of Service after a Period of Severance and ending on the date the Employee again incurs a Severance from Service.

(d) For purposes of aggregating periods of Continuous Service, 12 months of completed service shall equal one year of Continuous Service, and 30 days of completed service shall equal one month of Continuous Service.

2.18 **"Deferred Member"** shall mean (i) a Member who has terminated employment with the Company and all Associated Companies and whose Vested Share will be deferred in accordance with Section 11.1, (ii) the spouse Beneficiary of a deceased Member or Deferred Member, or (iii) an alternate payee designated as such pursuant to a Qualified Domestic Relations Order.

2.19 "Disability" shall mean, with respect to a Member, the total disability of the Member that would result in the Member qualifying for benefits under the LTD Plan had the Member been a participant in the LTD Plan. If a Member participates in the LTD Plan, then he or she shall be deemed totally disabled as determined by the insurance company that administers the LTD Plan. If a Member does not participate in the LTD Plan, then he or she shall be deemed to be totally disabled if he or she would have been deemed totally disabled had he or she participated in the LTD Plan, as determined by the Committee. For purposes of this Plan, the effective date of disability shall be the later of the date of disability as defined in the LTD Plan or the date on which the applicable insurance company or Committee issues its determination of total disability.

2.20 "Effective Date" shall mean May 16, 1998.

2.21 "Employee" shall mean an employee of the Company who is classified as a U.S. salaried payroll employee of the Company, who is paid from a payroll maintained in the continental United States, and who receives regular and stated compensation, other than a pension or a retainer. An Employee shall also mean a Non-U.S. Citizen Employee. However, except as the Board of Directors or the Committee, pursuant to authority delegated to it by the Board of Directors, may otherwise provide on a basis uniformly applicable to all persons similarly situated, and, except as specified in Section 2.41, no person shall be an Employee for purposes of the Plan:

(a) who is covered for current service under a non-U.S. pension or savings plan of the Company or any Associated Company, or any other plan specified by the Board of Directors from time to time;

(b) whose terms and conditions of employment are determined by a collective bargaining agreement with the Company that does not make this Plan applicable to him or her;

(c) who is a "leased employee"

(d) who is a non-resident alien employed by the Company and who does not receive earned income that constitutes income from sources within the United States;

(e) who is classified as an "independent contractor" or "consultant" by the Company, regardless of his or her classification by the IRS for tax withholding purposes;

(f) effective for Plan Years ending before January 1, 2000, who is a college work study student; or

(g) effective January 1, 2000, who is a federal work study student.

For purposes of (c) a "leased employee" is any person who performs services for another person, the "recipient," but who is not an employee of the recipient if (1) the services are provided pursuant to an agreement between the recipient and any other person, (2) the person has performed the services for the recipient (or for the recipient and related persons) on a substantially full-time basis for a period of at least one year, and (3) the services are performed under the primary direction or control of the recipient. A leased employee will not be considered an employee of the recipient if (1) the employee is covered by a money purchase pension plan providing a non-integrated employer contribution rate of at least 10% of Statutory Compensation, immediate participation, and full and immediate vesting and (2) leased employees do not constitute more than 20% of the recipient's non-highly compensated workforce.

2.22 **"Enrollment Date"** shall mean the first day of the first payroll period coincident with or next following the Effective Date with respect to a Member described in Section 3.1(a) or the first day of the first payroll period of the first complete month following the date a Member completes the eligibility requirements described in Section 3.1(b).

2.23 **"ERISA"** shall mean the Employee Retirement Income Security Act of 1974, as amended, and interpretive regulations.

2.24 **"ESI"** shall mean ITT Educational Services, Inc., a Delaware corporation.

2.25 **"ESI Stock"** shall mean common stock of ESI.

2.26 "**ESOP Account"** shall mean that portion of the Trust Fund that, with respect to any Member or Deferred Member, is attributable to allocations made under the employee stock ownership plan portion of the Pre-Distribution ITT Plan.

2.27 **"FMLA Leave"** shall mean an Employee's absence from work to care for a spouse or an immediate family member with a serious illness or for the Employee's own illness pursuant to the Family and Medical Leave Act of 1993, as amended, and interpretive regulations.

2.28 **"Fund"** shall mean each separate investment fund in which contributions to the Plan are invested in accordance with Article VII.

2.29 **"Hardship"** shall mean an immediate and heavy financial need that is determined by the Committee to satisfy all of the conditions specified in Section 9.3(c) and (d).

2.30 **"Highly-Compensated Employee"** shall mean:

(a) With respect to a Plan Year, any employee of the Company or an Associated Company (whether or not eligible for membership in the Plan) who

(i) was a five percent owner for that Plan Year or the prior Plan Year, or

(ii) for the preceding Plan Year received Statutory Compensation in excess of $80,000 multiplied by the Adjustment Factor.

(b) Notwithstanding the foregoing, employees who are nonresident aliens and who receive no earned income from the Company or an Associated Company that constitutes income from sources within the United States shall be disregarded for all purposes of this Section 2.30.

(c) The provisions of this Section shall be further subject to such additional requirements as described in Code section 414(q) and its applicable regulations, which shall override any aspects of this Section inconsistent therewith.

2.31 "Hour of Service" shall mean, with respect to any applicable computation period,

(a) each hour for which the employee is paid or entitled to payment for the performance of duties for the Company or an Associated Company,

(b) each hour for which an employee is paid or entitled to payment by the Company or an Associated Company on account of a period during which no duties are performed, whether or not the employment relationship has terminated, due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty or leave of absence, but not more than 501 hours for any single continuous period;

(c) each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Company or an Associated Company, excluding any hour credited under (a) or (b), which shall be credited to the computation period or periods to which the award, agreement, or payment pertains, rather than to the computation period in which the award, agreement, or payment is made; and

(d) solely for purposes of determining whether an employee has incurred a Break in Service, each hour for which the employee would normally be credited under paragraph (a) or (b) during a Parental Leave or FMLA Leave. However, the number of hours credited under this paragraph (d) during a Parental Leave shall not exceed 501 hours in any single continuous period,

No hours shall be credited on account of any period during which the employee performs no duties and receives payment solely for the purpose of complying with unemployment compensation, workers' compensation or disability insurance laws. The Hours of Service credited shall be determined as required by Title 29 of the Code of Federal Regulations, Section 2530.200b-2.

2.32 "ITT Floor Contribution Account" shall mean that portion of the Trust Fund that, with respect to any Member or Deferred Member, is attributable to (i) any employer contributions other than matching contributions made to the ITT Plan before October 1, 1996, and transferred to the Trust Fund pursuant to Section 14.4; (ii) any amounts transferred from the ITT Plan to the Trust Fund attributable to certain employer contributions other than matching contributions made on his or her behalf and transferred to the ITT Plan pursuant to a Prior Plan Transfer; and (iii) any investment earnings and gains or losses on any of the aforementioned amounts.

2.33 "ITT Plan" shall mean the ITT 401(k) Retirement Savings Plan, formerly known as the ITT Corporation Investment and Savings Plan for Salaried Employees.

2.34 "LTD Plan" shall mean the ESI Long-Term Disability Plan.

2.35 "Matching Company Contributions" shall mean a contribution made pursuant to Section 5.1.

2.36 "Member" shall mean (1) any person who has become a Member as provided in Article III, and (2) for purposes of Sections 2.53, 2.54 and 4.6, and Article X, any other person who has made a Rollover Contribution pursuant to Section 4.6(a)(i) but has not yet met the eligibility requirements for membership.

2.37 "Non-Highly-Compensated Employee" means for any Plan Year an employee of the Company or an Associated Company who is not a Highly-Compensated Employee for that Plan Year.

2.38 "Non-U.S. Citizen Employee" shall mean any person who is classified as a salaried corporate payroll Employee by the Company and who is:

(a) not a citizen of the United States,

(b) paid from a payroll maintained in the continental United States, and

(c) employed by the Company in a permanent position (as distinguished from a temporary assignment) in the continental United States, even though such person may be covered under a retirement plan of the Company other than those enumerated in Section 2.21(a), provided that upon such person's reassignment outside the continental U.S., the participation under this Plan of such person shall cease.

2.39 "Offering Date" shall mean the date of the underwritten public offering by ESI pursuant to a registration statement on Form S-3 filed with the Securities Exchange Commission on February 13, 1998.

2.40 "Parental Leave" shall mean an Employee's absence from work because of the Employee's pregnancy, the birth of the Employee's child, the placement of a child with the Employee in connection with the adoption of that child by the Employee, or for purposes of caring for that child for a period beginning immediately following that birth or placement.

2.41 "Participating Employer" shall mean, in addition to ESI, any Associated Employer that has, by appropriate written action of the Board of Directors or by a designated officer of ESI pursuant to authorization delegated to him or her by the Board of Directors, has been designated as a Participating Employer, and the board of directors of any such subsidiary or affiliated company shall have taken appropriate action to adopt the Plan.

To the extent that the Board of Directors or designated officer of ESI, as appropriate, shall have authorized and established in writing the basis for recognition under the Plan of service with a predecessor corporation(s), if any, reference in this Plan to service with a Participating Employer shall include service with the predecessor corporation(s) of the Participating Employer, provided that all or part of the business and assets of any such corporation shall have been acquired by ESI or by a Participating Employer.

2.42 "Period of Severance" shall mean a period of time that begins on the Severance from Service date and ends on the date on which an Employee again performs an Hour of Service.

2.43 "Plan" shall mean the ESI 401(k) Plan, set forth herein or as amended from time to time.

2.44 "Plan Year" shall mean the calendar year.

2.45 "Pre-Distribution ITT" shall mean ITT Corporation (a Delaware corporation), as constituted.

2.46 "Pre-Distribution ITT Plan" shall mean the ITT Corporation Investment and Savings Plan for Salaried Employees, as in effect on the date immediately preceding the effective date of the ITT Plan.

2.47 "Pre-Tax Investment Account" shall mean that portion of the Trust Fund that, with respect to any Member or Deferred Member, is attributable to (i) Basic Pre-Tax Savings, (ii) Supplemental Pre-Tax Savings, (iii) any amounts attributable to any pre-tax contributions made on his or her behalf to a qualified plan and transferred to the Trust Fund from the ITT Plan pursuant to Section 14.4, and (iv) earnings and gains or losses on any of the aforementioned amounts.

2.48 "Pre-Tax Savings" shall mean those contributions made on a Member's behalf pursuant to Section 4.1.

2.49 "Prior Plan Transfer" shall mean that portion of the After-Tax Investment Account, Pre-Tax Investment Account, Company Matching Contribution Account, Company Retirement Account, ITT Floor Contribution Account, or Rollover Account of any Member or Deferred Member that is attributable to amounts transferred on his or her behalf to the ITT Plan from the trust of another qualified profit sharing or other defined contribution plan.

2.50 "Qualified Domestic Relations Order" shall mean a qualified domestic relations order as defined in Code section 414(p).

2.51 "Retirement Contribution Account" shall mean that portion of the Trust Fund that, with respect to any Member or Deferred Member is attributable to (i) any Floor Contributions (ii) any contributions and investment earnings thereon to the extent such amounts were attributable to company contributions other than matching contributions made on his or her behalf on or after October 1, 1996, and transferred to the Trust Fund from the ITT Plan pursuant to Section 14.4, and (iii) any investment earnings and gains or losses on any of the aforementioned amounts.

2.52 "Retirement Contributions" shall mean a contribution made pursuant to Section 5.2.

2.53 "Rollover Account" shall mean that portion of the Trust Fund that, with respect to any Member or Deferred Member, is attributable to (i) Rollover Contributions, (ii) any rollover contributions and investment earnings thereon transferred to the Trust Fund from the ITT Plan, and (iii) any investment earnings and gains or losses on any of the aforementioned amounts.

2.54 "Rollover Contributions" shall mean those contributions made by an Employee or a Member pursuant to Section 4.6.

2.55 "Salary" shall mean, with respect to an Employee for a Plan Year, the Employee's wages, salaries, fees for professional services, and other amounts received for personal services actually rendered in the course of employment with the Company to the extent that the amounts are included in gross income, but excluding bonuses (other than retention bonuses). "Salary" specifically includes retention bonuses and lump sum vacation pay, and specifically excludes curriculum development pay, settlement agreement pay, lieu of notice pay, short term disability pay and severance pay. "Salary" also includes amounts contributed by the Company pursuant to a salary reduction agreement that are not includible in the gross income of the Member under Code section 125, 457, 402(h), 403(b), or 402(e)(3), and Employee contributions described in Code section 414(h)(2) that are treated as Employer contributions. Salary does not include, whether or not included in gross income, reimbursements or other expense allowances, fringe benefits (cash and non-cash), moving expenses (including settling in allowances), nonqualified deferred compensation, welfare benefits, or amounts realized from the exercise of a nonqualified stock option, or when restricted stock (or property) held by an employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture. Salary shall not exceed the Annual Dollar Limit.

2.56 "Service" shall mean the period of elapsed time beginning on the date an Employee commences employment with the Company or any Associated Company or predecessor company, subsidiary, or affiliate of ESI, and ending on his or her most recent Severance Date, which shall be the earlier of (a) the date he or she quits, is discharged, retires, or dies or (b) the first anniversary of the date on which he or she is first absent from service, with or without pay, for any reason such as vacation, sickness, disability, layoff, or leave of absence. If an Employee terminates employment and is later reemployed within 12 months of the earlier of (i) his or her date of termination or (ii) the first day of an absence from service immediately preceding his or her date of termination, the period of Service between his or her Severance Date and his or her reemployment date shall be included in his or her Service. With respect to service for purposes of the vesting schedule in Section 5.4, if an Employee terminates and is later reemployed after incurring a Break in Service, his or her period of Service prior to his or her Break in Service shall be included in his or her Service.

Under the circumstances hereinafter stated and upon such conditions as the Committee shall determine on a basis uniformly applicable to all Employees similarly situated, the period of Service of an Employee shall be deemed not to be interrupted by an absence of the type hereinafter stated, and the period of such absence shall be included in determining the length of an Employee's Service:

(i) if a leave of absence has been authorized by the Company or any Associated Company, for the period of such authorized leave of absence only; or

(ii) if an Employee enters service in the armed forces of the United States and if the Employee's right to reemployment is protected by the Selective Service Act or any similar law then in effect and if the Employee returns to regular employment within the period during which the right to reemployment is protected by any such law.

Notwithstanding the foregoing, the period of an Employee's employment rendered prior to the Effective Date that was recognized or would have been recognized under the ITT Plan as in effect on the Effective Date as eligibility service or vesting service shall be recognized as service under this Plan for purposes of vesting and eligibility purposes, whichever is applicable.

Notwithstanding the foregoing, for purposes of eligibility for membership in the Plan provided in Article III, an Employee whose employment with the Company or an Associated Company is on a temporary or less than full-time basis shall be credited with a year of Service if he or she completes at least 1,000 Hours of Service in a twelve consecutive month period of employment measured from the date on which the Employee's Service commences or from the beginning of any subsequent Plan Year. After such an Employee has become a Member of the Plan as provided in Article III, Service for purposes of meeting the requirements for vesting shall be determined in accordance with the preceding paragraphs of this Section 2.56.

Notwithstanding any Plan provision to the contrary, in the case of any person who is a leased employee, as defined in Code section 414(n), or a federal work study student, before or after a period of service as an Employee, the entire period during which he or she has performed services for the Company or an Associated Company as a leased employee or a federal work study student shall be counted as service as an Employee for all purposes of the Plan except that he or she shall not by reason of that status become a Member of the Plan.

2.57 "Severance from Service" occurs on the earlier of the following two dates:

(a) The date the Employee quits, is discharged, retires or dies; or

(b) The later of:

(i) the first anniversary of the first day the Employee is absent from the service of ESI or an Associated Company for a reason not enumerated in paragraph (a);

(ii) the expiration of an authorized leave of absence, provided the Employee does not return to the service of ESI or an Associated Company following the expiration of the leave of absence;

(iii) in the case of an absence due to maternity or paternity leave for reason of the birth of a child of the Employee, the placement of a child with the Employee in connection with the adoption of the child by the Employee, or the caring for a child for a period immediately following birth or placement, the second anniversary of the date the absence commences; or

(iv) any period of military service in the Armed Forces of the United States required to be credited by law; provided, however, that the Employee does not return to the service of ESI or an Associated Company within the period the Employee's reemployment rights are protected by law.

2.58 **"Severance Date"** shall mean the date an Employee is considered by the Company to have severed his or her employment with the Company and all Associated Companies as defined pursuant to the provisions of Section 2.58.

2.59 **"Statutory Compensation"** shall mean the wages, salaries, and other amounts paid in respect of an employee for services actually rendered to the Company or an Associated Company, including by way of example, overtime, bonuses, and commissions, but excluding: deferred compensation; stock options; other distributions that receive special tax benefits under the Code; severance pay and any other amounts paid after severance from employment, other than regular compensation for services during or outside regular working hours that is paid within 2 1/2 months of severance from employment or, if later, by the last day of the Plan Year in which employment was severed, and other than "differential wage payments" (as defined in Code section 3401(h)(2)); and salary continuation payments to Participants who do not perform services for the Employer by reason of disability leave. For purposes of determining Highly-Compensated Employees under Section 2.29, maximum annual addition under Section 6.4, key employees under Section 17.1, and minimum benefits under Section 17.3, Statutory Compensation shall include Pre-Tax Savings and amounts contributed on a Member's behalf on a salary reduction basis that are not includible in the gross income of the employee under Code section 125, 402(h), 132(f)(4), 457 or 403(b). For all other purposes, Statutory Compensation shall also include the amounts referred to in the preceding sentence, unless the Committee directs otherwise for a particular Plan Year. Statutory Compensation shall not exceed the Annual Dollar Limit.

2.60 **"Supplemental Pre-Tax Savings"** shall mean the contributions made on a Member's behalf that are credited to his or her Pre-Tax Investment Account in accordance with Section 4.1(a)(vii)(B).

2.61 **"Termination of Employment"** shall mean separation from employment with the Company and all Associated Companies, as determined by the Company, for any reason, including, but not limited to, retirement, death, Disability, resignation, dismissal or severance from employment; provided, however, that a transfer in employment between the Company and any Associated Company shall not be deemed to be Termination of Employment. With respect to any leave of absence and any period of service in the armed forces of the United States, Section 2.56 shall govern.

2.62 "Trust Fund" shall mean the aggregate funds held by the Trustee under the trust agreement or agreements established for the purposes of this Plan and consisting of the Funds as described in Article VII.

2.63 "Trustee" shall mean the Trustee or Trustees at any time acting as such under the trust agreement or agreements established for the purposes of this Plan.

2.64 "Valuation Date" shall mean the date or dates in each calendar month on which any valuation is made, as determined under Committee procedures established pursuant to Section 8.8.

2.65 "Vested Share" shall mean, with respect to a Member or Deferred Member, that portion of his or her Accounts vested in accordance with the terms of Sections 4.5 and 5.4.

ARTICLE III
MEMBERSHIP

3.1 Membership.

(a) Each Employee who is a member or deferred member under the ITT Plan on the Effective Date shall become a Member or Deferred Member, whichever is applicable, under the Plan on the Effective Date.

(b) Every other Employee shall become a Member as of the first Enrollment Date following the date on which he or she has completed a year of Service, provided he or she is then an Employee.

(c) Effective with respect to each Employee who completes an Hour of Service on or after January 1, 2002, but who has not become a Member pursuant to Section 3.1(a) or (b) before January 1, 2002, the Employee shall become a Member as of the first day of the month following the date he or she has completed three months of Continuous Service. If an Employee incurs a Severance from Service before completing three months of Continuous Service, thereafter incurs at least a 12-month Period of Severance and is then reemployed, his Period of Severance will not be counted as Continuous Service in determining the date he completes three months of Continuous Service after his reemployment. If an Employee incurs a Severance from Service before completing three months of Continuous Service, thereafter incurs a Period of Severance of less than 12 months and is then reemployed, his Period of Severance will be counted as Continuous Service in determining the date he completes three months of Continuous Service after his reemployment. A former Employee who has previously completed three months of Continuous Service but who has not become a Member will become a Member as of the first day of the month on or after the date he has completed an Hour of Service upon his reemployment. An Employee who becomes a Member and incurs a 12-month Period of Severance will again become a Member on the date he first completes an Hour of Service after his reemployment. Notwithstanding the preceding provisions, the period of an Employee's employment prior to January 1, 2002 that was recognized as eligibility service under the terms of the Plan then in effect will be recognized as eligibility service on January 1, 2002. Recognition of service will be in accordance with the transition rules set forth in Treasury Regulation § 1.410(a)-7.

(d) Notwithstanding Sections 3.1(a), (b) and (c), if, due to an error, a non-Highly-Compensated Employee begins membership in the Plan on a date before the date prescribed in Sections 3.1(a), (b) or (c), whichever is applicable ("early date"), the Employee will become a Member as of the early date. Each Employee who becomes a Member on an early date shall be identified in Schedule A to the Plan. Schedule A, as amended from time to time, is a part of the Plan.

3.2 Rehired Member. Any rehired Employee who at the time of his or her Termination of Employment was a Member of this Plan will again become a Member as soon as practicable after the Employee's reemployment date but no later than the first day of the first payroll period of the first complete month following the date of the Employee's rehire (his or her "reenrollment date").

Such a rehired Employee shall once again become a Member hereunder and shall be eligible to have Pre-Tax Savings made on his or her behalf pursuant to the provisions of Section 4.1 as soon as administratively practicable following his or her reenrollment date.

3.3 Transferred Members.

(a) Notwithstanding any Plan provision to the contrary, a Member who remains in the employ of the Company or an Associated Company but ceases to be an Employee shall continue to be a Member of the Plan but shall not be eligible to receive allocations of Pre-Tax Savings or Matching Contributions while his employment status is other than as an Employee.

(b) An individual who transfers from the status of an employee ineligible for Plan membership to an Employee eligible for membership shall become a Member on the later of (i) the first Enrollment Date following the month in which he or she completes the requirements set forth in Section 3.1, or (ii) as soon as practicable after the date the individual becomes an Employee, but no later than the first day of the first payroll period of the first complete month following the date he or she becomes an Employee (his or her "reenrollment date").

3.4 Termination of Membership. A Member's membership shall terminate on his or her Severance Date. A Deferred Member's membership shall terminate when all benefits to which he or she is entitled under the Plan are distributed to him or her.

ARTICLE IV
MEMBER CONTRIBUTIONS

4.1 Member Pre-Tax Savings.

(a) (i) Except as otherwise provided in Section 3.3, each Member who is not an Adjunct Instructor shall have his or her Salary reduced by 2%, and that amount shall be contributed on his or her behalf to the Plan by the Company as Pre-Tax Savings until and unless the Member elects in accordance with the procedures and within the time period prescribed by the Committee, to receive that Salary directly from the Company in cash. This reduction in Salary shall commence as soon as administratively practicable following (1) the Member's Enrollment Date or (2) the Member's reenrollment date, as defined in Article III, and shall be applied to Salary that could have been subsequently received by the Member. The Member may elect, subject to the provisions of paragraphs (b) through (d) below, to increase or decrease the reduction of his or her subsequent Salary, in increments of 1%, down to a total of 1%, or up to an unlimited total percent, and have that amount contributed on his or her behalf to the Plan by the Company as Pre-Tax Savings. An election shall be effective with the first payroll period on or after the date as of which the election is to apply or as soon as administratively practicable thereafter.

(ii) Except as otherwise provided in Section 3.3, each Member who is an Adjunct Instructor may elect, subject to the provisions of paragraphs (b) through (d) below, to have his or her Salary reduced by at least 1%, up to an unlimited total percent, in increments of 1%, and have that amount contributed on his or her behalf to the Plan by the Company as Pre-Tax Savings. The election shall be effective with the first payroll period on or after the date as of which the election is to apply or as soon as administratively practicable thereafter. If a Member who is an Adjunct Instructor makes no election pursuant to the preceding provisions of this paragraph, his or her Salary will not be reduced and he or she will receive his or her Salary directly from the Company in cash.

(iii) A Member, including a Member who is an Adjunct Instructor, also may elect, subject to the provisions of paragraph (b) through (d) below and in accordance with procedures prescribed by the Committee, to automatically increase the reduction of his or her subsequent Salary annually, in increments of 1%, over a period of one or more years, specifying the month in which each annual increase shall be effective and the amount of each annual increase, and have that amount contributed on his or her behalf to the Plan by the Company as Pre-Tax Savings. Elections specified to be effective in a particular month shall be effective with the first payroll period of that month. A Member may cancel his or her election to automatically and annually increase the reduction of his or her subsequent Salary at any time.

(iv) A Member who elects to receive the 2% of Salary described in the above paragraph (i) or who receives the Salary described in the above paragraph (ii) directly from the Company in cash, may elect at a later date, subject to the provisions of paragraphs (b) and (d) below, to have his or her subsequent Salary reduced by at least 1%, or up to an unlimited total percent, in increments of 1%, and have that amount contributed on his or her behalf to the Plan by the Company as Pre-Tax Savings. The election shall be effective with the first payroll period on or after the date as of which the election is to apply or as soon as administratively practicable thereafter.

(v) From time to time and in order to comply with Code section 401(k)(3), the Committee may impose a limitation on the extent to which a Member who is a Highly-Compensated Employee may reduce his or her Salary in accordance with this Section, based on the Committee's reasonable projection of savings rates of Members who are not Highly-Compensated Employees.

(vi) A Member who is eligible to reduce his or her Salary in accordance with this Section for a Plan Year and who has attained age 50 before the close of his or her taxable year beginning in that Plan Year shall be eligible to make catch-up contributions in accordance with, and subject to the limitations of, Code section 414(v). Such catch-up contributions shall not be taken into account for purposes of the provisions of the Plan implementing the required limitations of Code sections 402(g) and 415. The Plan shall not be treated as failing to satisfy the provisions of the Plan implementing the requirements of Code sections 401(k)(3), 401(k)(11), 401(k)(12), 410(b), or 416, as applicable, by reason of the making of such catch-up contributions.

(vii) A Member's Pre-Tax Savings shall consist of the following:

(A) Basic Pre-Tax Savings – Contributions under this Section that are not in excess of 5% of the Member's Salary for the payroll processing period for which the contributions are made shall be known as Basic Pre-Tax Savings and shall be credited to his or her Pre-Tax Investment Account; and

(B) Supplemental Pre-Tax Savings – Contributions under this Section that are in excess of the maximum allowed under the preceding paragraph (A) shall be known as Supplemental Pre-Tax Savings and shall be credited to a Member's Pre-Tax Investment Account. Supplemental Pre-Tax Savings may also include amounts credited on a Member's behalf under the ITT Plan and transferred to this Plan pursuant to Section 14.4.

Any Pre-Tax Savings shall be paid to the Trustee as soon as practicable but no later than the 15th business day of the month following the month in which the amounts would otherwise have been payable to the Member in cash.

(b) In no event shall the Member's Pre-Tax Savings and similar contributions made on his or her behalf by the Company or an Associated Company to all plans, contracts, or arrangements subject to the provisions of Code section 401(a)(30) in any calendar year exceed the applicable dollar amount under Code

section 402(g)(1)(B), other than as provided at Section 4.1(a)(vi). Except as provided at Section 4.1(a)(vi), if a Member's Pre-Tax Savings in a calendar year reach that dollar limitation, his or her election of Pre-Tax Savings for the remainder of the calendar year will be canceled. As of the first payroll period of the calendar year following that cancellation, the Member's election of Pre-Tax Savings shall again become effective in accordance with his or her previous election.

(c) In the event that the sum of the Pre-Tax Savings and similar contributions to any other qualified defined contribution plan maintained by the Company or an Associated Company exceeds the dollar limitation in Section 4.1(b) for any calendar year, the Member shall be deemed to have elected a return of Pre-Tax Savings in excess of that limit ("excess deferrals") from this Plan. The excess deferrals, together with investment income thereon for the Plan Year during which the excess occurred, shall be returned to the Member no later than the April 15 following the end of the calendar year in which the excess deferrals were made. The amount of excess deferrals to be returned for any calendar year shall be reduced by any Pre-Tax Savings previously returned to the Member under Section 6.1 for that calendar year. In the event any Pre-Tax Savings returned under this paragraph (c) were matched by Matching Company Contributions under Section 5.1, those Matching Company Contributions, together with investment income thereon for the Plan Year during which the excess occurred, shall be forfeited and used to reduce Company contributions.

(d) If a Member makes tax-deferred contributions under another qualified defined contribution plan maintained by an employer other than the Company or an Associated Company for any calendar year and those contributions when added to his or her Pre-Tax Savings exceed the dollar limitation under Section 4.1(b) for that calendar year, the Member may allocate all or a portion of those excess deferrals to this Plan. In that event, the excess deferrals, together with investment income thereon for the Plan Year during which the excess occurred, shall be returned to the Member no later than the April 15 following the end of the calendar year in which the excess deferrals were made. However, the Plan shall not be required to return excess deferrals unless the Member notifies the Plan Committee, in writing, by March 1 of that following calendar year, of the amount of the excess deferrals allocated to this Plan. The amount of any such excess deferrals to be returned for any calendar year shall be reduced by any Pre-Tax Savings previously returned to the Member under Section 6.1 for that calendar year. In the event any Pre-Tax Savings returned under this paragraph (d) were matched by Matching Company Contributions under Section 5.1, those Matching Company Contributions, together with investment income thereon for the Plan Year during which the excess occurred, shall be forfeited and used to reduce Company contributions.

4.2 Change in Contributions. The percentage of Salary designated under Section 4.1 shall automatically apply to increases and decreases in a Member's Salary. A Member may elect to change the rate of his or her Salary reduction in accordance with the administrative procedures and within the time period prescribed by the Committee. The change shall be effective as of the first payroll period of the month following the expiration of the notice period or as soon as administratively practicable thereafter.

4.3 Suspension and Resumption of Member Pre-Tax Savings.

(a) A Member may suspend his or her deferrals under Section 4.1 at any time in accordance with the administrative procedures and within the time period prescribed by the Committee. The suspension will become effective as of the later of the immediately succeeding payroll period or as soon as administratively practicable following the date notice is received by the Committee.

(b) A Member who suspends his or her savings in accordance with paragraph (a) may resume his or her deferrals under Section 4.1, in accordance with the administrative procedures and within the time period prescribed by the Committee, as of the first payroll period following the expiration of the notice period or as soon as administratively practicable thereafter.

(c) If a Member who is treated as having Terminated Employment due to performance of military service described in Code section 3401(h)(2)(A) elects, pursuant to Section 11.1(b), to have his or her Pre-Tax Investment Account distributed to him during the performance of that service, his or her Pre-Tax Savings will be suspended for the six-month period following the distribution.

4.4 No After-Tax Contributions. No after-tax contributions shall be required or permitted under the Plan. After-tax contributions made or held under the ITT Plan and transferred to this Plan pursuant to Section 14.4 shall be held in the Member's or Deferred Member's After-Tax Investment Account.

4.5 Vesting of Member's and Deferred Member's Contributions. Each Member's and Deferred Member's Pre-Tax Investment Account and After-Tax Investment Account shall at all times be fully vested.

4.6 Rollover Contributions.

(a) With the permission of the Committee and without regard to any limitations on contributions set forth in this Article IV, the Plan will accept Member rollover contributions and/or direct rollovers of distributions as described below.

(i) The Plan will accept a direct rollover of an eligible rollover distribution from:

(A) A qualified plan described in Code section 401(a) or 403(a), excluding after-tax employee contributions.

(B) An annuity contract described in Code section 403(b), excluding after-tax employee contributions.

(C) An eligible plan under Code section 457(b), which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(ii) The Plan will accept a Member contribution of an eligible rollover distribution from:

(A) A qualified plan described in Code section 401(a) or 403(a).

(B) An annuity contract described in Code section 403(b).

(C) An eligible plan under Code section 457(b), which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state.

(iii) The Plan will accept a Member rollover contribution of the portion of a distribution from an individual retirement account or annuity described in Code section 408(a) or 408(b) that is eligible to be rolled over and would otherwise be includible in gross income.

(b) If a Member terminates employment and is subsequently rehired by the Company, with the permission of the Committee, the Plan may receive from the Member any amount previously received (or deemed to be received) by him or her from this Plan as a result of his or her termination of employment.

(c) Notwithstanding the foregoing, the Plan shall not accept any amount unless the amount is eligible to be rolled over to a qualified trust in accordance with applicable law, and the Member or Employee provides evidence satisfactory to the Committee that the amount qualifies for rollover treatment. Unless received by the Plan in the form of a direct rollover, the Rollover Contribution must be paid to the Trustee on or before the 60th day after the day it was received by the Member or Employee.

(d) A Member's and Deferred Member's Rollover Account shall at all times be fully vested.

4.7 Contributions During Period of Military Leave.

(a) Notwithstanding any provision of this Plan to the contrary, contributions and service credit with respect to qualified military service will be provided in accordance with Code section 414(u).

(b) Without regard to any limitations on contributions set forth in this Plan, but subject to Section 4.3(c), a Member who is credited with Service because of a period of service in the uniformed services of the United States may elect to contribute to the Plan the Pre-Tax Savings that could have been contributed to the Plan in accordance with the provisions of the Plan had he or she remained continuously employed by the Company throughout that period of absence

("make-up contributions"). The amount of make-up contributions shall be determined on the basis of the Member's Salary in effect immediately prior to the period of absence and the terms of the Plan at that time. Any Pre-Tax Savings so determined shall be limited as provided in Sections 4.1 and 5.1 with respect to the Plan Year or Plan Years to which the contributions relate rather than the Plan Year or Plan Years in which payment is made. Any payment to the Plan described in this paragraph shall be made during the period, beginning with the date of reemployment, the duration of which is the lesser of three times the period of absence or five (5) years. Earnings (or losses) on make-up contributions shall be credited commencing with the date the make-up contribution is made in accordance with the provisions of Articles III and IV.

(c) All contributions under this Section 4.7 are considered "annual additions," as defined in Code section 415(c)(2) and shall be limited in accordance with the provisions of Section 6.4 with respect to the Plan Year or Plan Years to which the contributions relate rather than the Plan Year in which payment is made.

ARTICLE V
COMPANY CONTRIBUTIONS

5.1 Matching Company Contributions. The Company shall contribute to the Plan on behalf of each of its Members who elects to make Basic Pre-Tax Savings, a Matching Company Contribution each payroll processing period. The Matching Company Contribution amount is equal to 100 percent of the first 1 percent, and 50 percent of the next 4 percent, of the Member's Salary contributed to the Plan as Basic Pre-Tax Savings on behalf of the Member during each payroll processing period. In no event, however, shall the Matching Company Contributions pursuant to this Section exceed 3.0 percent of the Member's Salary while a Member with respect to any Plan Year. The Matching Company Contributions with respect to a Member shall be paid into the Trust Fund and credited to the Member's Company Matching Contribution Account as soon as practicable. No Matching Company Contributions shall be made with respect to a Member's Supplemental Pre-Tax Savings or catch-up contributions described in Section 4.1(a)(vi). Notwithstanding the foregoing, Matching Company Contributions shall not be made during the period the Member's Basic Pre-Tax Savings are suspended as described in Section 4.3(c) or 9.3(d). Matching Company Contributions are made expressly conditional on the Plan satisfying the provisions of Section 4.1, 6.1 and 6.2. If any portion of the Basic Pre-Tax Savings to which the Matching Company Contribution relates is returned to the Member under Section 4.1 or 6.1, the corresponding Matching Company Contribution shall be forfeited, and if the amount of the Matching Company Contribution is deemed an excess aggregate contribution under Section 6.2, the amount shall be forfeited in accordance with that Section.

5.2 Retirement Contributions. Effective January 1, 2002, Retirement Contributions shall be eliminated. For payroll processing periods prior to January 1, 2002, except as otherwise provided in Section 3.3, each payroll processing period, the Company shall contribute to the Trust Fund, with respect to each Member, a Retirement Contribution in an amount equal to 1% of the Member's Salary for the corresponding payroll processing period. Retirement Contributions shall be credited to the Member's Retirement Contribution Account and paid to the Trustee as soon as practicable.

5.3 Mode of Payment and Valuation of ESI Stock Contributed.

(a) Company contributions under Section 5.1 shall be made in cash.

(b) Company contributions made in cash shall be invested in accordance with Section 7.2.

(c) For the purpose of determining the value of ESI Stock under the Plan, in the event the stock is traded on a national securities exchange, the stock shall be valued at the average of the highest and lowest quoted selling price of ESI Stock on the New York Stock Exchange composite tape on the day the stock is delivered to the Trustee, provided that at least one sale of the stock took place on the exchange on that date, but if there was no sale on that date, then on the basis of the average of the highest and lowest quoted price on the nearest day before the delivery date upon which at least one sale of the stock took place on the exchange. In the event that ESI Stock is not traded on a national securities exchange, the shares shall be valued in good faith by an independent appraiser selected by the Trustee and meeting requirements similar to those in the regulations prescribed under Code section 170(a)(1).

5.4 Vesting. A Member who does not complete an Hour of Service on or after January 1, 2002 shall be vested in, and have a nonforfeitable right to, his or her Company Matching Contribution Account in accordance with the following schedule:

Years of Service	Nonforfeitable Percentage
Less than 1 year	0%
1 but less than 2 years	20%
2 but less than 3 years	40%
3 but less than 4 years	60%
4 but less than 5 years	80%
5 or more years	100%

A Member who completes an Hour of Service on or after January 1, 2002 shall be vested in, and have a nonforfeitable right to, his or her Company Matching Contribution Account in accordance with the following schedule, except that if the Member also completed an Hour of Service before January 1, 2002, the Member shall be vested in, and have a nonforfeitable right to his or her Company Matching Contribution Account in accordance with the preceding schedule, or the following schedule, whichever results in the greater nonforfeitable percentage for the Member:

Years of Service	Nonforfeitable Percentage
Less than 3 years	0%
3 or more years	100%

Notwithstanding the foregoing schedules, a Member shall immediately be fully vested in his or her Company Matching Contribution Account if, while employed by the Company or an Associated Company, the Member dies, incurs a Disability, or attains age 65, or in the event of Plan termination or complete discontinuance of Company contributions. For this purpose, a Member who dies while performing qualified military service (as defined in Code section 414(u)) will be treated as having resumed employment with the Employer and then terminated employment on account of death.

A Member who shall have performed services for Pre-Distribution ITT at any time between June 30, 1995 and December 19, 1995, shall be fully vested in the balance (determined at the later date), of his or her ESOP Account and his or her Company Matching Contribution Account, except with respect to the portion of his or her Company Matching Contribution Account that is attributable to matching contributions made for periods after the date immediately preceding December 19, 1995.

In the case of a Member or Deferred Member who shall not have performed services for Pre-Distribution ITT between June 30, 1995 and December 19, 1995, balances in his or her ESOP Account and Company Matching Contribution Account that were forfeited under Section 5.5(a) of the Pre-Distribution ITT Plan shall remain forfeited, except to the extent restored pursuant to Section 11.6 of this Plan on account of subsequent employment with the Company or an Associated Company.

Each Member and Deferred Member shall, at all times, be fully vested in his or her Retirement Contribution Account and his or her ITT Floor Contribution Account.

5.5 Forfeitures.

(a) In the event of Termination of Employment of a Member, the portion of the Member's Company Matching Contribution Account in which he or she is not vested in accordance with Section 5.4 shall not be forfeited until the Member has a Break in Service of five years or receives a distribution of the entire Vested Share of his or her Accounts, if earlier. However, if he or she is reemployed by the Company or Associated Company prior to the expiration of a period of Break in Service of five years, the provisions of Section 11.6 shall apply. If the amount of the Vested Share of a Member's Company Matching Contribution Account at the time of his or her Termination of Employment is zero, the Member shall be deemed to have received a distribution of that zero vested benefit.

(b) As soon as practicable after an event giving rise to a forfeiture has occurred, the amount of any forfeiture under the foregoing paragraph of this Section 5.5, reduced by any forfeited amounts restored to a Member's Accounts, shall be applied to reduce future Company contributions under the Plan and/or to pay Plan expenses pursuant to the provisions of Section 16.2.

(c) In the event of the termination of the Plan, any forfeitures not previously applied in accordance with the foregoing provisions of this Section shall be credited proportionately to the Accounts of all Members as provided in Section 14.2(b).

ARTICLE VI
LIMITATIONS ON CONTRIBUTIONS

6.1 Actual Deferral Percentage Test.

(a) With respect to each Plan Year, the Actual Deferral Percentage for that Plan Year for Highly-Compensated Employees who are Members for that Plan Year shall not exceed the Actual Deferral Percentage for that Plan Year for all Non-Highly-Compensated Employees who are Members for that Plan Year multiplied by 1.25. If the Actual Deferral Percentage for those Highly-Compensated Employees does not meet the foregoing test, the Actual Deferral Percentage for such Highly-Compensated Employees for that Plan Year may not exceed the Actual Deferral Percentage for that Plan Year for all Non-Highly-Compensated Employees who are Members for that Plan Year by more than two percentage points, and the Actual Deferral Percentage for those Highly-Compensated Employees for the Plan Year may not be more than 2.0 times the Actual Deferral Percentage for that Plan Year for all Non-Highly-Compensated Employees who are Members for that Plan Year.

If the Committee determines that the foregoing limitation has been exceeded in any Plan Year, the following provisions shall apply:

The actual deferral ratio of the Highly-Compensated Employee with the highest actual deferral ratio shall be reduced to the extent necessary to meet the Actual Deferral Percentage test or to cause that ratio to equal the actual deferral ratio of the Highly-Compensated Employee with the next highest ratio. This process will be repeated until the Actual Deferral Percentage test is passed. Each ratio shall be rounded to the nearest one one-hundredth of 1% of the Member's Statutory Compensation. The amount of Pre-Tax Savings Contributions made by each Highly-Compensated Employee in excess of the amount permitted under his or her revised deferral ratio shall be added together. This total dollar amount of excess contributions ("excess contributions") shall then be allocated to some or all Highly-Compensated Employees by reducing the Pre-Tax Savings of the Highly-Compensated Employee with the highest dollar amount of Pre-Tax Savings by the lesser of (i) the amount required to cause that Employee's Pre-Tax Savings to equal the dollar amount of the Pre-Tax Savings of the Highly-Compensated Employee with the next highest dollar amount, or (ii) an amount equal to the total excess contributions. This procedure is repeated until all excess contributions are allocated. The amount of excess contributions allocated to a Highly-Compensated Employee (adjusted to reflect earnings or losses attributable thereto, but only for the Plan Year during which the excess occurred) shall be distributed to him or her in accordance with the provisions of paragraph (c).

(b) The Committee may implement rules limiting the Pre-Tax Savings that may be made on behalf of some or all Highly-Compensated Employees so that the limitation under this Section 6.1 is satisfied.

(c) Pre-Tax Savings subject to reduction under this Section, together with investment income thereon for the Plan Year during which the excess occurred, ("excess contributions") shall be paid to the Member before the close of the Plan Year following the Plan Year in which the excess contributions were made and, to the extent practicable, within 2 $^{1}/2$ months of the close of the Plan Year in which the excess contributions were made. However, any excess contributions for any Plan Year shall be reduced by any Pre-Tax Savings previously returned to the Member under Section 4.1 for that Plan Year. In the event any Pre-Tax Savings returned under this Section 6.1 were matched by Matching Company Contributions, the corresponding Matching Company Contributions, with investment income thereon for the Plan Year during which the excess occurred, shall be forfeited and used to reduce Company contributions.

6.2 Actual Contribution Percentage Test.

(a) With respect to each Plan Year, the Actual Contribution Percentage for that Plan Year for Highly-Compensated Employees who are Members for that Plan Year shall not exceed the Actual Contribution Percentage for that Plan Year for all Non-Highly-Compensated Employees who were Members for that Plan Year multiplied by 1.25. If the Actual Contribution Percentage for a Plan Year for those Highly-Compensated Employees does not meet the foregoing test, the Actual Contribution Percentage for the Highly-Compensated Employees for the Plan Year may not exceed the Actual Contribution Percentage for that Plan Year for all Non-Highly-Compensated Employees who were Members for that Plan Year by more than two percentage points, and the Contribution Percentage for those Highly-Compensated Employees for the Plan Year may not be more than 2.0 times the Actual Contribution Percentage for that Plan Year for all Non-Highly-Compensated Employees who were Members for that Plan Year.

If the Committee determines that the limitation under this Section 6.2 has been exceeded in any Plan Year, the following provisions shall apply:

(i) The actual contribution ratio of the Highly-Compensated Employee with the highest actual contribution ratio shall be reduced to the extent necessary to meet the Actual Contribution Percentage test or to cause that ratio to equal the actual contribution ratio of the Highly-Compensated Employee with the next highest actual contribution ratio. This process will be repeated until the Actual Contribution Percentage test is passed. Each ratio shall be rounded to the nearest one one-hundredth of 1% of a Member's Statutory Compensation. The amount of Matching Company Contributions made by or on behalf of each Highly-Compensated

Employee in excess of the amount permitted under his or her revised actual contribution ratio shall be added together. This total dollar amount of excess contributions ("excess aggregate contributions") shall then be allocated to some or all Highly-Compensated Employees in accordance with the provisions of paragraph (a)(ii).

(ii) The Matching Company Contributions of the Highly-Compensated Employee with the highest dollar amount of those contributions shall be reduced by the lesser of (i) the amount required to cause that Employee's Matching Company Contributions to equal the dollar amount of those contributions of the Highly-Compensated Employee with the next highest dollar amount of those contributions, or (ii) an amount equal to the total excess aggregate contributions. This procedure is repeated until all excess aggregate contributions are allocated. The amount of excess aggregate contributions allocated to each Highly-Compensated Employee, (adjusted to reflect earnings or losses attributable thereto, but only for the Plan Year during which the excess occurred), shall be distributed or forfeited in accordance with the provisions of paragraph (b) below.

(b) To the extent contributions must be paid or returned to a Member under paragraph (a) above, so much of the Matching Company Contributions, together with investment income thereon for the Plan Year during which the excess occurred, as shall be necessary to equal the balance of the excess aggregate contributions shall be reduced with the vested Matching Company Contributions being paid to the Member and the Matching Company Contributions that are forfeitable under the Plan being forfeited and applied to reduce Company contributions.

(c) Any repayment or forfeiture of excess aggregate contributions shall be made before the close of the Plan Year following the Plan Year for which the excess aggregate contributions were made and, to the extent practicable, any repayment or forfeiture shall be made within 2 $^{1}/2$ months of the close of the Plan Year in which the excess aggregate contributions were made.

6.3 Additional Discrimination Testing Provisions.

(a) If any Highly-Compensated Employee is a member of another qualified plan of the Company or an Associated Company, other than an employee stock ownership plan described in Code section 4975(e)(7) or any other qualified plan that must be mandatorily disaggregated under Code section 410(b), under which pre-tax contributions or matching contributions are made on behalf of the Highly-Compensated Employee, the Committee shall implement rules, which shall be uniformly applicable to all employees similarly situated, to take into account all such contributions for the Highly-Compensated Employee under all such plans in applying the limitations of Sections 6.1 and 6.2. If any other such qualified plan has a plan year other than the Plan Year, the contributions to be taken into account in applying the limitations of Sections 6.1 and 6.2 will be those made in the same year as the Plan Year.

(b) In the event that this Plan is aggregated with one or more other plans to satisfy the requirements of Code sections 401(a)(4) and 410(b) (other than for purposes of the average benefit percentage test) or if one or more other plans is aggregated with this Plan to satisfy the requirements of Sections 401(a)(4) and 410(b) of the Code, then the provisions of Sections 6.1 and 6.2 shall be applied by determining the Actual Deferral Percentage and Actual Contribution Percentage of employees as if all such plans were a single plan. If this Plan is permissively aggregated with any other plan or plans for purposes of satisfying the provisions of Code section 401(k)(3), the aggregated plans must also satisfy the provisions of Code sections 401(a)(4) and 410(b) as though they were a single plan. Plans may be aggregated under this paragraph (b) only if they have the same plan year.

(c) The Committee may elect to use Pre-Tax Savings or Retirement Contributions to satisfy the test described in Section 6.2, provided that the test described in Section 6.1 is met prior to that election, and continues to be met following the Company's election to shift the application of those Pre-Tax Savings or Retirement Contributions from Section 6.1 to Section 6.2.

(d) The Company may authorize that special "qualified nonelective contributions" shall be made for a Plan Year, which shall be allocated in such amounts and to such Members, who are not Highly Compensated Employees, as the Committee shall determine. The Committee shall establish such separate accounts as may be necessary. Qualified nonelective contributions shall be 100% nonforfeitable when made, and any earnings credited on any qualified nonelective contributions shall not be available for withdrawal prior to a Member's Termination of Employment. Qualified nonelective contributions made for the Plan Year may be used to satisfy the tests described in Sections 6.1 and 6.2, where necessary, but may not exceed the amount described in Treasury Regulation §1.401(k)-2(a)(6)(iv) or §1.401(m)–2(a)(6)(v).

(e) For purposes of calculating investment income under Sections 6.1 and 6.2, investment income earned on amounts within 7 days of the return or forfeiture of those amounts may be disregarded.

6.4 Maximum Annual Additions.

(a) Notwithstanding any other provision of the Plan, except as otherwise provided in Section 4.1(a)(vi) and this Section 6.4(a), the annual addition to a Member's Accounts for any Plan Year, which shall be considered the limitation year for purposes of Code section 415, when added to the Member's annual addition for that Plan Year under any other qualified defined contribution plan of the Company or Associated Company, shall not exceed an amount that is equal to the lesser of (i) 100% of his or her Statutory Compensation for the year or (ii) $40,000, as adjusted for increases in the cost of living under Code section 415(d). The limit referred to in (i) shall not apply to any contribution for medical benefits after separation from service (within the meaning of Code sections 401(h) or 419A(f)(2)), which is otherwise treated as an annual addition.

(b) For purposes of this Section 6.4, the "annual addition" to a Member's Accounts under this Plan for any Plan Year shall be the sum of (i) the total contributions, including Pre-Tax Savings, made on the Member's behalf by the Company and all Associated Companies for the Plan Year, (ii) all Member contributions (exclusive of any Rollover Contributions) for the Plan Year, and (iii) the amount of any forfeiture that is credited to the Member's Account for the Plan Year pursuant to Section 5.5.

(c) If a Member's annual additions exceed the limitations of this Section for any Plan Year, then the Plan may correct the excess in accordance with Revenue Procedure 2008-50 or any superseding guidance, including the preamble of the final regulations under Code section 415.

(d) In the event that any Member of this Plan is a participant in any other defined contribution plan (whether or not terminated) maintained by the Company or any Associated Company, the total amount of annual additions to the Member's Accounts under all such defined contribution plans shall not exceed the limitations set forth in this Section 6.4. If it is determined that as a result of the limitations set forth in this paragraph (d), the annual additions to the Member's Accounts must be reduced:

(i) first, the annual additions to the Member's Accounts under the other defined contribution plans shall be reduced to the extent necessary and to the extent permitted by law so that the limitations described in Section 6.4(a) are not exceeded; and

(ii) second, if after application of paragraph (i) the annual additions to the Member's Accounts are still in excess of the permissible amount, the annual additions to the Member's Accounts under this Plan shall be reduced.

ARTICLE VII
INVESTMENT OF CONTRIBUTIONS

7.1 Investment Funds.

(a) Contributions to the Plan and amounts transferred to the Plan from the ITT Plan shall be invested in one or more Funds, as authorized by the Committee, which from time to time may include such guaranteed investment contract funds, bond funds, balanced funds, equity index funds, growth equity funds, international stock funds, company stock funds (including an ESI Stock Fund), and other funds as the Committee elects to offer. A Fund selected by the Committee shall be communicated to Members and Deferred Members in a timely fashion.

(b) In any Fund, the Trustee in its sole discretion temporarily may hold cash or make short-term investments in obligations of the United States Government, commercial paper, or an interim investment fund for tax-qualified employee benefit plans established by the Trustee, unless otherwise provided by applicable law, or other investments of a short-term nature.

(c) Dividends, interest, and other distributions received on the assets held by the Trustee in respect to each of the Funds shall be reinvested in the respective Fund.

7.2 Investment of Contributions. Contributions under the Plan made by or on behalf of a Member (or an Employee who made a Rollover Contribution prior to meeting the eligibility requirements for membership), including Matching Company Contributions made on behalf of a Member, shall be invested, in multiples of 1%, in any one or more of the Funds as designated by the Member (or Employee) pursuant to rules and procedures established by the Committee, except that, effective March 19, 2004, new contributions shall not be invested in the ESI Stock Fund.

7.3 Change in Future Contribution Investment Election. A Member (or an Employee who made a Rollover Contribution prior to meeting the eligibility requirements for membership, with respect to future Rollover Contributions) may change his or her investment election with respect to future contributions made by or on his or her behalf at any time within the limitations set forth in Section 7.2. Such a change shall be made in 1% multiples, in accordance with the administrative procedures and within the time period prescribed by the Committee and shall be effective as soon as practicable thereafter.

7.4 Redistribution of Accounts Among the Funds. A Member or Deferred Member (or Beneficiary in the event of the death of a Member or Deferred Member) may elect at any time to reallocate on any Valuation Date all or part, in multiples of 1%, of his or her Pre-Tax Investment Account and Matching Contribution Account and, if applicable, his or her Retirement Contribution Account, After-Tax Investment Account, Rollover Account, and ESOP Account, among the Funds, other than the ESI Stock Fund. An Employee who has made a Rollover Contribution prior to meeting the eligibility requirements for membership may elect at any time to reallocate on any Valuation Date all or part, in multiples of 1%, of his or her Rollover Account among the Funds, other than the ESI Stock Fund. A Member, Deferred Member, Beneficiary, or Employee may cause all or part of his or her Accounts that are invested in the ESI Stock Fund to be transferred to another Fund, but he or she may not cause any part of any Account to be transferred into the ESI Stock Fund on or after March 19, 2004. Reallocations made pursuant to this Section shall be made in accordance with the administrative procedures and within the time limits prescribed by the Committee and shall be effective as soon as practicable thereafter.

7.5 Voting of ESI Stock. Each Member and Employee is, for the purposes of this Section 7.5, hereby designated a named fiduciary within the meaning of Section 402(a)(2) of ERISA with respect to the shares of ESI Stock allocated to his or her Accounts. Each Member, Deferred Member, and Employee (or Beneficiary in the event of the death of the Member, Deferred Member or Employee) may direct the Trustee as to the manner in which the ESI Stock allocated to his or her Accounts is to be voted. Before each annual or special meeting of shareholders of ESI, there shall be sent to each Member, Deferred Member, Beneficiary, and Employee who has made a Rollover

Contribution a copy of the proxy solicitation material for the meeting, together with a form requesting instructions to the Trustee on how to vote the ESI Stock allocated to the Member's, Deferred Member's, Employee's, or Beneficiary's Accounts. Upon receipt of the instructions, the Trustee shall vote the shares as instructed. In lieu of voting fractional shares as instructed by Members, Deferred Members, Employees, or Beneficiaries, the Trustee may vote the combined fractional shares of ESI Stock to the extent possible to reflect the directions of Members, Deferred Members, Employees, or Beneficiaries with allocated fractional shares of each class of stock. Except as otherwise provided in Article XVII, the Trustee shall vote, or abstain from voting, shares of ESI Stock allocated to Accounts under the Plan but for which the Trustee received no valid voting instructions in the manner determined by the Trustee, in its discretion. Instructions to the Trustee shall be in the form and pursuant to the procedures prescribed by the Committee.

Any instructions received by the Trustee from Members, Deferred Members, Employees, and Beneficiaries regarding the voting of ESI Stock shall be confidential and shall not be divulged by the Trustee to the Company or to any director, officer, employee, or agent of the Company, it being the intent of this provision of Section 7.5 to ensure that the Company (and its directors, officers, employees, and agents) cannot determine the voting instructions given by any Member, Deferred Member, Employee, or Beneficiary.

7.6 Limitations Imposed by Contract. Notwithstanding anything in this Article to the contrary, any contributions invested in a fund of guaranteed investment contracts shall be subject to any and all terms of those contracts, including any limitations placed on the exercise of any rights otherwise granted to a Member under any other provisions of this Plan with respect to those contributions.

7.7 Responsibility for Investments. Each Member, Deferred Member, or Employee (or Beneficiary in the event of the death of a Member, Deferred Member, or Employee) is solely responsible for the selection of his or her investment options made pursuant to Section 7.2, 7.3, or 7.4. The Trustee, the Committee, the Company, and the officers, supervisors, and other employees of the Company are not empowered to advise a Member, or Deferred Member as to the manner in which his or her Accounts shall be invested. The fact that a Fund is available to Members or Deferred Members (or Employees who have made a Rollover Contribution prior to meeting the eligibility requirements for membership) for investment under the Plan shall not be construed as a recommendation for investment in the Fund.

ARTICLE VIII
CREDITS TO MEMBERS' ACCOUNTS, VALUATION, AND ALLOCATION OF ASSETS

8.1 Pre-Tax Savings and Rollover Contributions. Pre-Tax Savings made on behalf of a Member, and Rollover Contributions contributed by a Member or an Employee, shall be allocated to the Pre-Tax Investment Account or Rollover Account of that Member or Employee as appropriate, as soon as practicable after those contributions are transferred to the Trust Fund.

8.2 Matching Company Contributions. Matching Company Contributions made on behalf of a Member shall be allocated to the Company Matching Contribution Account of the Member, as soon as practicable after those contributions are made to the Trust Fund.

8.3 Retirement Contributions. Retirement Contributions made for a Member were allocated to the Retirement Contribution Account of the Member, as soon as practicable after those contributions were made to the Trust Fund.

8.4 Credits to Members' Accounts. At each Valuation Date on which the Plan is in effect and operation, the amount of each Member's credit in each of the Funds shall be expressed and credited in dollars of contributions by the Member and Company contributions and ESI Stock allocated to a Member's Accounts for that payroll processing period. For the purposes of Section 7.5 and Article XV, a Member's interest in the ESI Stock Fund shall be converted into shares of ESI Stock at any time of determination by dividing the value of all shares of ESI Stock in the ESI Stock Fund by the value of that Member's interest in the ESI Stock Fund at the time. The resulting number of shares of ESI Stock shall be deemed allocated to the Member.

8.5 Valuation of Assets. On each Valuation Date, the Trustee shall determine the total fair market value of all assets then held by it in each Fund.

8.6 Allocation of Assets. On each Valuation Date when the value of all assets in each Fund has been determined pursuant to Section 8.5, the Trustee shall determine the gain or loss in the value of the assets in each of the Funds. The gain or loss shall be allocated pro rata by Fund to the balances credited to the Accounts of all Members and Deferred Members immediately prior to the Valuation Date, not including new contributions to that Fund on the Valuation Date for that Valuation Date.

8.7 Annual Statements. At least once a year, each Member and Deferred Member shall be furnished with a statement setting forth the value of his or her Accounts and the vested portion of his or her Accounts.

8.8 Valuation Dates. The Committee shall establish procedures for determining the Valuation Dates that shall apply for withdrawals, distributions, or other relevant purposes. Valuation Dates need not be the same for all purposes. The Funds shall be revalued on each business day.

ARTICLE IX
WITHDRAWALS PRIOR TO TERMINATION OF EMPLOYMENT

9.1 General Conditions for Withdrawals. Subject to the restrictions set forth below, at any time before Termination of Employment, a Member may request a withdrawal of any amount from his or her Accounts in accordance with the administrative procedures and within the time period prescribed by the Committee. Any such withdrawal shall be payable only in cash and shall be in accordance with the conditions of Section 9.2, 9.3, or 9.4. No more than two withdrawal requests of any kind, including hardship, shall be permitted each calendar year. For purposes of this Article IX, a Member's Accounts shall be valued as of the applicable Valuation Date. Amounts to be withdrawn and distributed

to Members will not participate in the investment experience of the Plan after that Valuation Date. Withdrawn amounts generally shall be paid as soon as practicable following the Valuation Date. If a Member has Accounts in more than one Fund, the amount withdrawn shall be prorated among the Funds based on their respective values.

9.2 Non-Hardship Withdrawal Prior to Age 59 $^{1}/2$. A Member who has not yet reached age 59 $^{1}/2$ as of the date of his or her withdrawal request may elect, subject to Section 9.1, to withdraw from his or her Accounts in the following order:

(a) all or part of his or her After-Tax Investment Account;

(b) all or part of his or her Rollover Account:

(c) all or part of his or her ESOP Account;

(d) all or part of his or her ITT Floor Contributions Account;

(e) all or part of his or her Company Matching Contribution Account attributable to vested amounts contributed to (1) the Pre-Distribution ITT Plan before 1990 or (2) the ITT Plan prior to October 1, 1996.

9.3 Hardship Withdrawal Prior to Age 59 $^{1}/2$.

(a) A Member who has withdrawn the total amount available for withdrawal under Section 9.2 may, subject to Section 9.1, elect to withdraw all or part of his or her Pre-Tax Savings made on his or her behalf under this Plan or under the ITT Plan and transferred to his or her Pre-Tax Investment Account, and earnings credited on that Account prior to January 1, 1989 under the Pre-Distribution ITT Plan, upon furnishing proof of Hardship satisfactory to the Committee.

(b) A Member shall be considered to have incurred a Hardship if, and only if, he or she meets the requirements of paragraphs (c) and (d) below.

(c) As a condition for Hardship, the Member must have an immediate and heavy need to draw upon his or her Pre-Tax Investment Account. The Committee shall presume the existence of an immediate and heavy need if the requested withdrawal is on account of any of the following:

(i) expenses for medical care described in Code section 213(d) previously incurred by the Member, his or her spouse or any of his or her dependents (as defined in Code section 152) or necessary for those persons to obtain that medical care, to the extent those expenses are not paid or reimbursed by insurance;

(ii) costs directly related to the purchase of a principal residence of the Member (excluding mortgage payments);

(iii) payment of tuition and related educational fees, including room and board expenses, for the next 12 months of post-secondary education of the Member, or his or her spouse or dependents (as defined in Code section 152 without regard to Code section 152(b)(1), (b)(2) and (d)(1)(B));

(iv) payment of amounts necessary to prevent eviction of the Member from his or her principal residence or to avoid foreclosure on the mortgage of his or her principal residence;

(v) payments for burial or funeral expenses for the Member's deceased parent, spouse, children or dependents (as defined in Code section 152 without regard to Code section 152(d)(1)(B));

(vi) expenses for the repair of damage to the Member's principal residence that would qualify for a casualty deduction under Code section 165 (determined without regard to whether the loss exceeds 10% of adjusted gross income); or

(vii) the inability of the Member to meet such other expenses, debts, or other obligations recognized by the Internal Revenue Service as giving rise to immediate and heavy financial need for purposes of Code section 401(k).

The amount of withdrawal may not exceed the amount of the immediate and heavy financial need of the Member, including any amounts necessary to pay any federal, state, or local income taxes on the amount withdrawn and any amounts necessary to pay any penalties reasonably anticipated to result from the distribution.

In evaluating the relevant facts and circumstances, the Committee and any delegate thereof shall act in a nondiscriminatory fashion and shall treat uniformly those Members who are similarly situated. The Member shall furnish to the Committee or its delegate such supporting documents as the Committee or its delegate may request in accordance with uniform and nondiscriminatory rules prescribed by the Committee.

(d) As a condition for Hardship, the Member must demonstrate that the requested withdrawal is necessary to satisfy the financial need described in paragraph (c). The Committee shall deem the Member to have demonstrated such necessity, provided all of the following requirements are met: (A) the Member has obtained all distributions, other than distributions available only on account of hardship, and all nontaxable loans currently available under the Plan and all other plans of the Company and Associated Companies; (B) the Member is prohibited from making Pre-Tax Savings to the Plan and all other plans of the Company and Associated Companies under the terms of those plans or by means of an otherwise legally enforceable agreement for at least six months after receipt of the distribution; and (C) the limitation described in Section 4.1(b) under all plans of the Company and Associated Companies for the calendar year following the year in which the withdrawal is made must be reduced by the Member's elective deferrals made in the calendar year of the distribution for Hardship. For purposes of (B), "all other plans of the Company and Associated Companies" shall include stock option plans, stock purchase plans, qualified and non-qualified deferred compensation plans, and such other plans as may be designated under regulations issued under Code section 401(k), but shall not include health and welfare benefit plans or the mandatory employee contribution portion of a defined benefit plan.

9.4 Withdrawals After age 59 ^{1}/2. A Member who has reached age 59 ^{1}/2 as of the date of his or her withdrawal request may elect, subject to Section 9.1, to withdraw from his or her Accounts in the following order:

(a) the total amount available for withdrawal under Section 9.2,

(b) all or part of his or her Company Matching Contribution Account, and

(c) all or part of his or her Pre-Tax Investment Account.

9.5 Ordering of Withdrawals. For purposes of processing a withdrawal, basic after-tax savings made by a Member under the ITT Plan, and investment earnings and gains thereon, and supplemental after-tax savings made by a Member under the ITT Plan, and investment earnings and gains thereon, shall constitute a separate contract (Contract II), and all remaining amounts in the Plan with respect to a Member shall constitute another contract (Contract I), for purposes of Code section 72(e). The Committee shall maintain records of withdrawals, contributions, earnings, and other additions and subtractions attributable to each separate contract and shall credit or charge the appropriate contract, and adjust the non-taxable basis of each contract, for transactions properly allocable to that contract.

For purposes of processing a withdrawal under Section 9.2(a)(i), the withdrawals will be deducted from the Member's Accounts in Contract I and Contract II in the following order: (i) the value of the Member's After-Tax Investment Account in Contract I attributable to supplemental after-tax savings, (ii) the value of the Member's After-Tax Investment Account in Contract II attributable to supplemental after-tax savings, (iii) the value of the Member's After-Tax Investment Account in Contract I attributable to basic after-tax savings and (iv) the value of the Member's After-Tax Investment Account in Contract II attributable to basic after-tax savings.

9.6 Death After Withdrawal Election. If a Member elects a withdrawal and dies after the issuance of the check(s) comprising the withdrawal but prior to negotiation of the check(s), then any unpaid portion of the withdrawal as represented by the non-negotiated check(s) shall be paid to his or her estate. If more than one check comprises a withdrawal and the Member negotiates the first check but dies prior to the issuance of the subsequent check, then the subsequent check shall be paid to his or her estate. If a Member elects a withdrawal and dies prior to the issuance of any check(s) comprising the withdrawal, then the withdrawal election shall be voided. For purposes of this Section 9.6, the issuance of a check shall occur on the earlier of the date of issuance shown on the check or the withdrawal Valuation Date.

9.7 Direct Rollover. Certain withdrawals or portions thereof paid pursuant to this Article IX may be "eligible rollover distributions" as defined and discussed in Section 11.7 and are governed thereby.

9.8 Retirement Contribution Account. A Member's Retirement Contribution Account is not available for distribution or withdrawal prior to a Member's Termination of Employment.

ARTICLE X
LOANS

10.1 General Conditions for Loans. Subject to the restrictions set forth in the following provisions of this Article X, at any time before Termination of Employment, a Member who is an employee of the Company or an Associated Company may request a loan from his or her Accounts in accordance with the administrative procedures and within the time period prescribed by the Committee. By filing the loan request forms, the Member:

(a) specifies the amount and the term of the loan,

(b) agrees to the annual percentage rate of interest,

(c) agrees to the finance charge,

(d) promises to repay the loan, and

(e) authorizes the Company to make regular payroll deductions to repay the loan.

The amount of the loan is to be transferred from the Funds in which the Member's Accounts are invested to a special "Loan Fund" for the Member under the Plan. The Loan Fund consists solely of the amount transferred to the Loan Fund and is invested solely in the loan made to the Member. The amount transferred to the Loan Fund shall be pledged as security for the loan. Payments of principal on the loan will reduce the amount held in the Member's Loan Fund. Those payments, together with the attendant interest payment, will be reinvested in the Funds in accordance with the Member's then effective investment election.

10.2 Amounts Available for Loans. An eligible Member may request a loan in any specified whole dollar amount that, when added to the outstanding balance of any other loans to the Member from this Plan or any other qualified plan of the Company or an Associated Company, may not exceed the lesser of (a) 50% of the Member's Vested Share, or (b) $50,000 reduced by the excess, if any of (i) the highest outstanding balance of loans during the one year period ending on the day before the loan is made over (ii) the outstanding balance of loans to the Member from such plans on the date on which the loan is made. For purposes of determining amounts available for loans, as described in the foregoing provisions of this Section 10.2, a Member's Vested Share shall be determined based on the latest information available to the Committee at the time he or she files his or her loan request with the Committee.

10.3 Account Ordering for Loans. For purposes of processing a loan, the amount of the loan will be deducted from the Member's Accounts in the following order:

(a) Retirement Contribution Account;

(b) Pre-Tax Investment Account;

(c) Company Matching Contribution Account;

(d) ITT Floor Contribution Account;

(e) ESOP Account;

(f) Rollover Account;

(g) After-Tax Account.

A loan is deducted from a Member's Accounts as of the applicable Valuation Date. Amounts so deducted and distributed to a Member as a Plan loan will not participate in the investment experience of the Plan except as those amounts are repaid to the Member's Accounts.

10.4 Interest Rate for Loans. The Committee shall establish and communicate to Members a reasonable rate of interest for loans commensurate with the interest rates charged by persons in the business of lending money for loans that would be made under similar circumstances, as determined by the Committee, which interest rate shall remain in effect for the term of the loan.

10.5 Term and Repayment of Loan. In addition to such rules and regulations as the Committee may adopt, all loans shall comply with the following terms and conditions:

(a) An application for a loan by a Member shall be made in writing to the Committee in the manner prescribed by the Committee, whose action in approving or disapproving the application shall be final;

(b) Each loan shall be evidenced by a promissory note payable to the Plan;

(c) The period of repayment for any loan shall be arrived at by mutual agreement between the Committee and the Member, but that period shall not exceed five years unless the loan is to be used in conjunction with the purchase of the principal residence of the Member;

(d) Payments of principal and interest will be made by payroll deductions, or in a manner agreed to by the Member and the Committee, in substantially level amounts, but no less frequently than quarterly, in an amount sufficient to amortize the loan over the repayment period;

(e) Repayment of the loan is made to the Member's Accounts from which the loan amount was deducted in inverse order to the Account ordering described in Section 10.3. Repayments are invested in the Member's Accounts in accordance with his or her current investment election.

10.6 **Frequency of Loan Requests.** A Member may have only one loan outstanding at any time. A Member who fully repays a loan may apply for another loan immediately after the effective date of the final repayment.

10.7 **Prepayment of Loans.** A Member may prepay the entire outstanding balance of a loan, with interest to date of repayment, in the manner and under the procedures established by the Committee. No partial prepayments shall be permitted.

10.8 **Outstanding Loan Balance at Termination of Employment.** In addition to such rules and regulations as the Committee shall adopt, upon the Member's Termination of Employment, the outstanding balance of any loan shall become due and payable. If the Member does not elect to prepay within the time period prescribed by the Committee, the outstanding loan balance and any accrued interest shall be treated as a taxable distribution.

10.9 **Loan Default During Employment.** Under certain circumstances, including, but not limited to, the Member's failure to make repayment or the bankruptcy of the Member, the Committee may declare a Member's loan to be in default. In the event default is declared for a Member who has not reached age 59 $^{1}/2$, the outstanding balance shall become due and payable, and the outstanding loan balance and any accrued interest shall be deemed a taxable distribution. In the event default is declared for a Member who has reached age 59 $^{1}/2$, the outstanding loan balance and any accrued interest shall be treated as a withdrawal prior to Termination of Employment subject to the provisions of Article IX. A Member who has defaulted on a loan shall be prohibited from applying for any future loans.

10.10 **Incorporation by Reference.** Any additional rules or restrictions as may be necessary to implement and administer Plan loans shall be established by the Committee in written guidelines and shall be communicated to Members who apply for loans. The written guidelines are hereby incorporated into the Plan by reference, and pursuant to Section 13.2(b), the Committee is hereby authorized to make such revisions to these guidelines as it deems necessary or appropriate on the advice of counsel.

10.11 **Death after Loan Application**. If a Member applies for a loan and dies after a check for the loan amount has been issued but prior to negotiation of the check, then the loan shall be paid to his or her estate. If a Member applies for a loan and dies before the check for the loan amount is issued, then the loan application shall be voided. For purposes of this Section 10.11, the check will be deemed to have been issued on the earlier of the date of issuance shown on the check or the loan Valuation Date.

10.12 **Military Leave.** Notwithstanding any Plan provisions to the contrary, in the event a Member enters the uniformed services of the United States and retains reemployment rights under the law, repayment of a loan shall be suspended during the period of leave, and the period of repayments shall be extended by the number of months of the period of service in the uniformed services; provided, however, if the Member incurs a Termination of Employment and requests a distribution pursuant to Article XI, the loan shall be canceled, and the outstanding loan balance shall be distributed pursuant to Article XI.

10.13 Delay of Repayment for Qualified Hurricane Individuals. Pursuant to Code section 1400Q(c), in the case of a "qualified individual" (as defined at Code section 1400Q(c)(3)(A)) with an outstanding loan on or after the "qualified beginning date" (as defined at Code section 1400Q(c)(4)), if the due date for any loan repayment occurs during the period beginning on the qualified beginning date and ending on December 31, 2006, the due date shall be delayed for one year, any subsequent repayments shall be adjusted to reflect the delay in the due date and any interest accruing during the delay, and the period of delay shall be disregarded in determining the 5-year period and term of the loan under Code section 72(p)(2).

ARTICLE XI
DISTRIBUTIONS

11.1 Commencement of Payments.

(a) Except as otherwise provided in this Article, distribution of the Vested Share of a Member's Accounts shall commence as soon as administratively practicable following the later of (i) the Member's Termination of Employment or (ii) the date the Member attains age 70 $^{1}/_{2}$, but not later than 60 days after the close of the Plan Year in which the later of (i) or (ii) occurs.

(b) In lieu of a distribution as described in paragraph (a) above received before May 16, 2008, a Member or Deferred Member whose Vested Share exceeds $1,000 (as determined under Section 11.9) may, in accordance with procedures prescribed by the Committee, elect to have the distribution of his or her Vested Share commence as of any Valuation Date coincident with or following his or her Termination of Employment that is before the date described in paragraph (a) above. In lieu of a distribution as described in paragraph (a) above received after May 15, 2008, a Member or Deferred Member whose Vested Share exceeds $5,000 (as determined under Section 11.9) may, in accordance with procedures prescribed by the Committee, elect to have the distribution of his or her Vested Share commence as of any Valuation Date coincident with or following his or her Termination of Employment that is before the date described in paragraph (a) above. A Member performing military service described in Code section 3401(h)(2)(A) will be treated as having Terminated Employment during the performance of the service for the purpose of electing to have a distribution of his or her Pre-Tax Investment Account. However, a Member or Deferred Member whose Vested Share does not exceed $1,000 (as determined under Section 11.9) before May 16, 2008 or $5,000 (as determined under Section 11.9) after May 15, 2008 shall receive distribution of his or her Vested Share as described in Section 11.3.

(c) In the case of the death of a Member or Deferred Member before payment of his or her Accounts commences, the Vested Share of his or her Accounts shall be distributed to his or her Beneficiary as soon as administratively practicable following the Member's or Deferred Member's date of death. Notwithstanding the foregoing, the Beneficiary of a Member or Deferred Member whose Vested Share of his or her Accounts, as of the Valuation Date coincident with or next following

the Member's or Deferred Member's date of death, exceeds $1,000 (as determined under Section 11.9) or, effective May 16, 2008, exceeds $5,000 (as determined under Section 11.9) may elect to defer receipt of the Member's or Deferred Member's Vested Share for a period not to exceed 12 months from the Member's or Deferred Member's date of death.

(d) A Member who attained age 70 $^{1}/2$ before January 1, 1997 must commence distribution of his or her Vested Share by no later than the April 1 following the year in which he or she attained age 70 $^{1}/2$. If a Member attains age 70 $^{1}/2$ after January 1, 1997, but before January 1, 1999, distribution of the Vested Share of his Accounts shall begin by April of the calendar year following the calendar year in which the Member attains age 70 $^{1}/2$ unless the Member elects to defer commencement of his Plan benefits until a date no later than April of the calendar year following the calendar year in which the Member's Termination of Employment occurs. A Member described in this paragraph (d) may elect that his or her Vested Share be paid under the payment method described in Section 11.2(b)(i) below, if permissible under the terms of that payment method, or in an immediate lump sum. Payment of the Vested Share of a Member who has attained age 70 $^{1}/2$ pursuant to this paragraph (d) shall be made no less frequently than annually, and once payment has commenced, the Member may not elect an alternate method for payment of his or her Vested Share while the Member is still an Employee.

(e) A Deferred Member or a Member who is a "5-percent owner" as defined in Code section 414(q)(1) must commence distribution of his or her Vested Share by no later than the April 1 following the year in which he or she attains age 70 $^{1}/2$. Notwithstanding the foregoing, a Member who attains 70 $^{1}/2$ on or after January 1, 1996, and who is not a "5-percent owner" may elect to receive payments while in Service. In either case, the Member may elect that his or her Vested Share be paid in accordance with options (i) or (ii) below:

(i) one lump sum payment on or before the April 1 of the calendar year following the calendar year in which he or she attains age 70 $^{1}/2$ equal to his or her entire Vested Share and annual lump sum payments thereafter of amounts accrued during each calendar year; or

(ii) payments in annual installments over a period designated by the Member not to exceed 20 years. In the event that the Member dies before all installments have been paid, the remaining balance of his or her Vested Share shall be paid in an immediate cash lump sum to his or her Beneficiary.

Once payment has commenced, the Member may not elect an alternate method for payment, except as otherwise provided in Section 11.2.

11.2 Forms and Methods of Distribution.

(a) With respect to a Termination of Employment occurring before May 16, 2008, after Termination of Employment occurs, and as soon as practicable following application by the Member, Deferred Member or Beneficiary, distribution under the Plan shall be made in a lump sum, unless an election is made by a Member or Deferred Member pursuant to paragraph (b) below. With respect to a Termination of Employment occurring after May 15, 2008, after Termination of Employment occurs, and as soon as practicable following application by the Member, Deferred Member or Beneficiary whose Vested Share exceeds $5,000 (as determined under Section 11.9) as of the Valuation Date corresponding to his or her application, distribution under the Plan shall be made in a lump sum, unless an election is made by a Member or Deferred Member pursuant to paragraph (b) below.

(b) With respect to distributions occurring before May 16, 2008, a Member or Deferred Member whose Vested Share, as of the Valuation Date corresponding to his or her application for distribution, exceeds $1,000 (as determined under Section 11.9) but does not exceed $5,000 (as determined under Section 11.9), may elect, in accordance with the administrative procedures and within the time period prescribed by the Committee, to receive his or her Vested Share in a lump sum payment. With respect to distributions occurring after May 15, 2008, a Member or Deferred Member whose Vested Share, as of the Valuation Date corresponding to his or her application for distribution, exceeds $5,000 (as determined under Section 11.9), may elect, in accordance with the administrative procedures and within the time period prescribed by the Committee, to receive his or her Vested Share in one of the following optional forms:

(i) payments in approximately equal monthly or annual cash installments over a period, designated by the Member or Deferred Member, not to exceed 20 years, or

(ii) with respect to elections made that result in annuity starting dates that occur before April 1, 2002, the purchase of a nonforfeitable fixed annuity, provided that if the Member or Deferred Member is married, the benefit shall be in the form of a qualified joint and survivor annuity. For these purposes, a qualified joint and survivor annuity is a monthly annuity for the life of the Member, with monthly payments continuing after the Member's death to the Member's surviving spouse in a monthly amount equal to 50% of the monthly amount the Member received during his or her lifetime. The Member or Deferred Member may elect, during the 90-day period preceding his or her annuity starting date, not to take the qualified joint and survivor annuity and to take instead another form of annuity, provided that he or she obtains his or her spouse's written, notarized consent. Elections shall be subject to receipt by the Committee of the Member's or Deferred Member's written spousal consent to that election. The spousal consent must be witnessed by a notary public and must acknowledge the effect on the spouse of the Member's or Deferred

Member's election. The Committee shall furnish each Member or Deferred Member no less than 30 days nor more than 90 days before the benefit commencement date a written explanation of the qualified joint and survivor annuity in accordance with applicable law. A Member or Deferred Member may revoke his or her election and make a new election from time to time and at any time during the aforesaid election period. If the annuity form selected is not a qualified joint and survivor annuity with the Member's or Deferred Member's spouse as the Beneficiary, the annuity payable to the Member or Deferred Member and thereafter to his Beneficiary shall be subject to the incidental death benefit rule as described in Code section 401(a)(9)(G) and its applicable regulations.

In the event that the Member or Deferred Member elects installments and dies before all installments have been paid, the remaining balance of his or her Vested Share shall be paid in an immediate cash lump sum to his or her Beneficiary; provided, however the Beneficiary may elect in accordance with the administrative procedures and within such time period as the Committee shall prescribe to continue payment of the deceased Member's or Deferred Member's Account pursuant to the same method of distribution elected by the Member or the Deferred Member.

Any Member or Deferred Member who elects annual or monthly installment payments may, at any time thereafter, elect by filing a request with the Committee to receive in a lump sum the remaining value of any unpaid installments.

(c) Alternative methods of distribution may apply to that portion of a Member's or a Deferred Member's Accounts attributable to a Prior Plan Transfer.

(d) If a Member or a Deferred Member dies before his or her benefits commence, the Vested Share of his or her Accounts shall be paid to his or her Beneficiary in a lump sum. However, if a Member or a Deferred Member who has elected an annuity under Section 11.2(a)(ii) dies before his or her benefit commences, and his or her spouse is his or her Beneficiary, payment shall be made to the spouse in the form of a life annuity unless the spouse elects a lump sum.

(e) All distributions shall be made in cash; provided, however, that a Member, Deferred Member, or Beneficiary may elect to receive a distribution from the ESI Stock Fund in ESI Stock, with any fractional interest in a share of ESI Stock paid in cash.

(f) Notwithstanding any other provision of this Article XI, all distributions from the Plan shall conform to the regulations issued under Code section 401(a)(9), including the incidental death benefit provisions of Code section 401(a)(9)(G). Further, those regulations shall override any Plan provision that is inconsistent with Code section 401(a)(9).

11.3 Small Benefits. Notwithstanding any provision of the Plan to the contrary, a lump sum payment shall be made in lieu of all vested benefits if the value of the Vested Share of the Member's Accounts as of the time the benefits are distributed does not exceed $1,000 (as

determined under Section 11.9). The lump sum payment shall automatically be made as soon as administratively practicable following the Member's Termination of Employment. Effective May 16, 2008, the amount "$5,000" shall be substituted for the amount "$1,000" in the first sentence of this Section and, if the value of the Member's Vested Share as of the time the benefits are distributed exceeds $1,000 (as determined under Section 11.9), but not $5,000 (as determined under Section 11.9) and the Member does not elect to receive his or her distribution in cash, with federal income taxes withheld, in accordance with the administrative procedures and within the time period prescribed by the Committee, his or her distribution will be transferred, automatically, in a direct rollover to an individual retirement account (IRA) established with an IRA provider designated by the Committee.

11.4 Death of Beneficiary. Upon the death of a Beneficiary with Accounts remaining in the Plan, the remaining value of all such Accounts shall be paid in a lump sum distribution as soon as practicable to the Beneficiary, if any, selected by the deceased Beneficiary, or if no Beneficiary has been named by the deceased Beneficiary, the remaining value of all such Accounts shall be paid in a lump sum distribution as soon as practicable to the estate of the deceased Beneficiary.

11.5 Proof of Death and Right of Beneficiary or Other Person. The Committee may require and rely on such proof of death and such evidence of the right of any Beneficiary or other person to receive the undistributed value of the Accounts of a deceased Member, Deferred Member, or Beneficiary as the Committee deems proper, and the Committee's determination of death and of the right of a Beneficiary or other person to receive payment shall be conclusive. Payment to any Beneficiary shall be final and fully satisfy and discharge the obligation of the Plan with respect to any and all Accounts of a deceased Member or deceased Deferred Member. In the event of a dispute regarding the account of a deceased Member or Deferred Member, the Committee may make a final determination or initiate or participate in any action or proceeding as may be necessary or appropriate to determine any Beneficiary under the Plan. During the pendency of any action or proceeding, the Committee may deposit an amount equal to the disputed payment with the court, and such deposit shall relieve the Plan of all of its obligation with respect to any such disputed Accounts.

11.6 Restoration of Prior Forfeiture. If a Member's employment is terminated otherwise than by retirement or Disability, and as a result of the termination an amount to his or her credit is forfeited in accordance with the provisions of Section 5.5, that amount shall be subsequently restored to his or her Accounts, provided he or she is reemployed by the Company or an Associated Company prior to the expiration of a Break in Service of five years, and, after giving any prior written notice required by the Committee, he or she repays to the Trust Fund an amount in cash equal to the full amounts of his or her Pre-Tax Investment Account attributable to Basic Pre-Tax contributions, his or her vested Company Matching Contribution Account, Retirement Contribution Account, ITT Floor Contribution Account, and his or her ESOP Account distributed to him or her from the Trust Fund on account of his or her Termination of Employment. (At his or her option, the Member may repay the amount of his or her Pre-Tax Investment Account attributable to Supplemental Pre-Tax Savings and Rollover Account.) The repayment must be made within five years of the date he or she is reemployed by the Company or an Associated Company and shall be made in one lump sum. Repaid amounts shall be invested in the Funds in accordance with Member's then current investment election.

11.7 Direct Rollover of Certain Distributions. Notwithstanding any other provision of this Plan, with respect to any withdrawal or distribution from this Plan pursuant to Article IX or this Article XI that is determined by the Committee to be an "eligible rollover distribution," the distributee may elect, at the time and in a manner prescribed by the Committee for that purpose, to have the Plan make a "direct rollover" of all or part of the withdrawal or distribution to an "eligible retirement plan" that accepts such rollovers. Further, a non-spouse Beneficiary who is a "designated beneficiary" (as defined in Code Code section 401(a)(9)(E)) of a Member may elect to have any portion of a distribution payable to him or, to the extent provided in rules prescribed by the Secretary, payable to a trust maintained for his or her benefit, transferred in a direct trustee-to-trustee transfer to an individual retirement plan described in Code section 402(c)(8)(B)(i) or (ii) established for the purpose of receiving the distribution on behalf of the Beneficiary. The following definitions apply to the terms used in this Section 11.7:

(a) "Distributee" means a Member or Deferred Member. In addition, the Member's or Deferred Member's spouse Beneficiary and the Member's or Deferred Member's spouse or former spouse who is the alternate payee under a Qualified Domestic Relations Order, are distributees with regard to the interest of the spouse or former spouse.

(b) "Eligible rollover distribution" is any withdrawal or distribution of all or any portion of a Member's or Deferred Member's Vested Share owing to the credit of a distributee, except that the following distributions shall not be eligible rollover distributions: (i) any distribution that is one of a series of substantially equal periodic payments made for the life or life expectancy of the distributee, or for a specified period of ten years or more, (ii) any distribution required under Code section 401(a)(9), (iii) the portion of a distribution not includible in gross income, (iv) any hardship distribution and (v) any other distribution that is not an eligible rollover distribution under the Code or regulations thereunder. A portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, the portion of an eligible rollover distribution consisting of after-tax employee contributions that are not includible in gross income may be transferred only to an individual retirement account or annuity described in Code section 408(a) or (b), or to a qualified defined contribution or defined benefit plan described in Code section 401(a) or 403(a) or an annuity contract described in Code section 403(b) that agrees to separately account for amounts so transferred, including separately accounting for the portion of such distribution that is includible in gross income and the portion of such distribution that is not so includible.

(c) "Eligible retirement plan" means any of the following that accepts an eligible rollover distribution: subject to the applicable requirements of Code section 408A, a Roth IRA described in Code section 408A; an individual

retirement account described in Code section 408(a); an individual retirement annuity described in Code section 408(b); an annuity plan described in Code section 403(a); a qualified plan described in Code section 401(a); an annuity contract described in Code section 403(b); and an eligible plan under Code section 457(b), which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.

(d) "Direct rollover" means a payment by the Plan directly to the eligible retirement plan specified by the distributee.

In the event that the provisions of this Section 11.7 or any part thereof cease to be required by law as a result of subsequent legislation or otherwise, this Section 11.7 or applicable part thereof shall be of no further force or effect without necessity of further amendment of the Plan.

11.8 Waiver of Notice Period. Except as provided in the following sentence, if the value of the Vested Share of a Member's Accounts exceeds $5,000 (as determined under Section 11.9), an election by the Member or Deferred Member to receive a distribution shall not be valid unless the written election is made (a) after the Member has received the notice required under Section 1.411(a)-11(c) of the Income Tax Regulations and (b) within a reasonable time before the effective date of the commencement of the distribution as prescribed by those regulations. If a distribution is one to which Code sections 401(a)(11) and 417 do not apply, the distribution may commence less than 30 days after the notice required under Section 1.411(a)-11(c) of the Income Tax Regulations is given, provided that:

(a) the Committee clearly informs the Member or Deferred Member that he or she has a right to a period of at least 30 days after receiving the notice to consider the decision of whether or not to elect a distribution (and, if applicable, a particular distribution option), and

(b) the Member or Deferred Member, after receiving the notice under Sections 411 and 417, affirmatively elects a distribution.

If the distribution is one to which Code sections 401(a)(11) and 417 do apply, a Member may, after receiving the notice required under Code sections 411 and 417, affirmatively elect to have his or her benefit commence sooner than 30 days following his or her receipt of the required notice, provided all of the following requirements are met:

(a) the Committee clearly informs the Member that he or she has a period of at least 30 days after receiving the notice to decide when to have distribution of his or her benefit begin, and if applicable, to choose a particular optional form of payment;

(b) the Member or Deferred Member affirmatively elects a date for benefits to begin, and, if applicable, an optional form of payment, after receiving the notice;

(c) the Member or Deferred Member is permitted to revoke his or her election until the later of his or her annuity starting date or seven days following the day he or she received the notice;

(d) the Member's or Deferred Member's annuity starting date is after the date the notice is provided; and

(e) payment does not commence less than seven days following the day after the notice is received by the Member or Deferred Member.

11.9 Determination of Nonforfeitable Account Balance. For purposes of determining whether a Member's nonforfeitable account balance exceeds $1,000 under this Article and Section 16.4, the value of a Member's nonforfeitable account balance shall be determined with regard to that portion of the account balance that is attributable to rollover distributions (and earnings allocable thereto) within the meaning of Code sections 402(c), 403(a)(4), 403(b)(8), 408(d)(3)(A)(ii), and 457(e)(16). For purposes of determining whether a Member's nonforfeitable account balance exceeds $5,000 under this Article and Section 16.4 of the Plan, the value of a Member's nonforfeitable account balance shall be determined without regard to that portion of the account balance that is attributable to rollover distributions (and earnings allocable thereto), as described in the first sentence of this Section.

ARTICLE XII
MANAGEMENT OF FUNDS

12.1 ESI Employee Benefit Plan Administration and Investment Committee. The ESI Employee Benefit Plan Administration and Investment Committee, as appointed pursuant to Section 13.1, shall be responsible, except as otherwise herein expressly provided, for the management of the assets of the Plan.

The Committee is designated a named fiduciary of the Plan within the meaning of Section 402(a) of ERISA and shall have the authority, powers, and responsibilities delegated and allocated to it from time to time by resolutions of the Board of Directors, including, but not by way of limitation, the authority to establish one or more trusts for the Plan pursuant to trust instrument(s) approved or authorized by the Committee and subject to the provisions of the trust instrument(s) to:

(a) provide, consistent with the provisions of the Plan, direction to the Trustee thereunder, which may involve but need not be limited to direction of investment of Plan assets and the establishment of investment criteria, and

(b) appoint and provide for use of investment advisors and investment managers (within the meaning of Section 3(38)) of ERISA.

In discharging its responsibility, the Committee shall evaluate and monitor the investment performances of the Trustee and investment managers, if any.

12.2 Trust Fund. All the funds of the Plan shall be held by a Trustee appointed from time to time by the Committee in one or more trusts under a trust instrument or instruments approved or authorized by the Committee for use in providing the benefits of the Plan; provided that no part of the corpus or income of the Trust Fund shall be used for, or diverted to, purposes other than for the exclusive benefit of Members, Deferred Members, and Beneficiaries.

12.3 Reports to Members and Deferred Members. Each quarter, at a time to be determined by the Committee, each Member and Deferred Member shall be furnished a written statement setting forth the value of each of his or her Accounts, together with a statement of the amounts contributed to each such Account by himself or herself and by the Company on his or her behalf and the vested amount of the Company Matching Contribution Account or the earliest time a portion of the Company Matching Contribution Account will become vested.

12.4 Fiscal Year. The fiscal year of the Plan and the Trust shall end on December 31 of each year or at such other date as may be designated by the Committee.

ARTICLE XIII
ADMINISTRATION OF PLAN

13.1 Appointment of Committee. From time to time, the Board of Directors or an officer of ESI to whom authority has been delegated by the Board of Directors shall appoint not less than five persons to serve as the ESI Employee Benefit Plan Administration and Investment Committee during the pleasure of the appointing Board of Directors or officer and shall designate a chairman of the Committee from among the members and a secretary who may be, but need not be, one of the members of the Committee. Any person so appointed may resign at any time by delivering his or her written resignation to the secretary of ESI and the chairman or secretary of the Committee. Notwithstanding any vacancies, the Committee may act so long as there are at least three members of the Committee.

13.2 Powers of Committee.

(a) The Committee is designated a named fiduciary within the meaning of Section 402(a) of the ERISA, and shall have authority and responsibility for general supervision of the administration of the Plan. For purposes of the regulations under Section 404(c) of ERISA, the Committee shall be the designated fiduciary responsible for safeguarding the confidentiality of all information relating to the purchase, sale and holding of employer securities and the exercise of shareholder rights appurtenant thereto. In addition, for purposes of avoiding any situation for undue employer influence in the exercise of any shareholder rights, the Committee shall appoint an independent fiduciary, who shall not be affiliated with any sponsor of the Plan, to ensure the maintenance of confidentiality pursuant to the regulations under Section 404(c) of ERISA.

(b) The Committee shall establish such policies, rules, and regulations as it may deem necessary to carry out the provisions of the Plan and transactions of its business, including, without limitation, such rules and regulations that may become necessary with respect to loans and any defaults thereof.

(c) Except as to matters that are required by law to be determined or performed by the Board of Directors, or that from time to time the Board may reserve to itself or allocate or delegate to officers of ESI or to another committee, the Committee shall determine with discretionary authority any question arising in the administration, interpretation, and application of the Plan, including the right to remedy possible ambiguities, inconsistencies, or commissions. Such determinations shall be final, conclusive, and binding on all parties affected thereby.

(d) The Committee shall have the right to exercise powers reserved to the Board of Directors hereunder to the extent that the right to exercise those powers may from time to time be allocated or delegated to the Committee by the Board of Directors and to such further extent that, in the judgment of the Committee, the exercise of such powers does not involve any material cost to the Company.

(e) The Committee may retain counsel, employ agents, and provide for such clerical, accounting, and other services as it may require in carrying out the provisions of the Plan.

(f) The Committee may appoint from its number such committees with such powers as it shall determine and may authorize one or more of its number or any agent to execute or deliver any instrument or make any payment on its behalf.

(g) The Committee may delegate to an administrator the responsibility of administering and operating the details of the Plan in accordance with the provisions of the Plan and any policies that, from time to time, may be established by the Committee.

13.3 Committee Action. Action by the Committee may be taken by majority vote at a meeting upon such notice, or upon waiver of notice, and at such time and place as it may determine from time to time; or action may be taken by written consent of a majority of the members without a meeting with the same effect for all purposes as if assented to at a meeting.

13.4 Compensation. No member of the Committee shall receive any compensation for his or her services as such and, except as required by law, no bond or other security shall be required of him or her in such capacity in any jurisdiction.

13.5 Committee Liability. The members of the Committee shall use that degree of care, skill, prudence, and diligence in carrying out their duties that a prudent man, acting in a like capacity and familiar with such matters, would use in his or her conduct of a similar situation. A member of the Committee shall not be liable for the breach of fiduciary responsibility of another fiduciary unless:

(a) he or she participates knowingly in, or knowingly undertakes to conceal, an act or omission of the fiduciary, knowing that the act or omission is a breach; or

(b) by his or her failure to discharge his or her duties solely in the interest of the Members and other persons entitled to benefits under the Plan, for the exclusive purpose of providing benefits and defraying reasonable expenses of administering the Plan not met by the Company, he or she has enabled the other fiduciary to commit a breach; or

(c) he or she has knowledge of a breach by the other fiduciary and does not make reasonable efforts to remedy the breach; or

(d) the Committee improperly allocates responsibilities among its members or to others and he or she fails prudently to review such allocation.

ARTICLE XIV
AMENDMENT AND TERMINATION

14.1 Amendment. The Board of Directors or its delegate reserves the right at any time and from time to time, and retroactively if deemed necessary or appropriate to conform with governmental regulations or other policies, to modify or amend in whole or in part any or all of the provisions of the Plan; provided that no such modification or amendment (i) shall make it possible for any part of the funds of the Plan to be used for, or diverted to, purposes other than for the exclusive benefit of Members, Deferred Members, and Beneficiaries; or (ii) shall increase the duties of the Trustee without its consent thereto in writing. Except as may be required to conform with governmental regulations, no such amendment shall adversely affect the rights of any Member or Deferred Member with respect to contributions made on his or her behalf prior to the date of the amendment.

14.2 Termination of Plan.

(a) The Plan is entirely voluntary on the part of the Company. The Board of Directors reserves the right at any time to terminate the Plan, the trust agreement, and the trust hereunder, or to suspend, reduce, or partially or completely discontinue contributions to the Plan. In the event of a termination or partial termination of the Plan or complete discontinuance of contributions, the interests of Members and Deferred Members shall automatically become nonforfeitable.

(b) In the event of a termination or partial termination or complete discontinuance, any forfeitures not previously applied in accordance with Section 5.5 shall be credited ratably to the Accounts of all Members and Deferred Members in proportion to the amounts of Matching Company Contributions made pursuant to Section 5.1 credited during the current calendar year or, if no Matching Company Contributions have been made during the current calendar year, then in proportion to the Matching Company Contributions during the last previous calendar year during which Matching Company Contributions were made.

(c) Upon termination of the Plan, Pre-Tax Savings, with earnings thereon, shall be distributed to Members only if (i) neither the Company nor an Associated Company establishes or maintains a successor defined contribution plan, and (ii) payment is made to the Members in the form of a lump sum distribution (as defined in Code section 401(k)(10)(B)(ii). For purposes of this paragraph, a "successor defined contribution plan" is a defined contribution plan (other than an employee stock ownership plan as defined in Code section 4975(e)(7) ("ESOP") or a simplified employee pension as defined in Code section 408(k) ("SEP")) that exists at the time the Plan is terminated or within the 12 month period beginning on the date all assets are distributed. However, in no event shall a defined contribution plan be deemed a successor plan if fewer than 2% of the employees who are eligible to participate in the Plan at the time of its termination are or were eligible to participate under another defined contribution plan of the Company or an Associated Company (other than an ESOP or a SEP) at any time during the period beginning 12 months before and ending 12 months after the date of the Plan's termination.

14.3 Merger or Consolidation of Plan. The Plan may not be merged or consolidated with, nor may its assets or liabilities be transferred to, any other plan unless each Member, Deferred Member, or Beneficiary under the Plan would, if the resulting plan were then terminated, receive a benefit immediately after the merger, consolidation, or transfer that is equal to or greater than the benefit he or she would have been entitled to receive immediately before the merger, consolidation, or transfer if the Plan had then terminated.

14.4 Transfer from ITT Plan. On the Offering Date, the Trustee shall accept from the trustee of the ITT Plan a transfer of the assets of the ITT Plan attributable to the accounts in that plan of individuals who are Employees as of the Effective Date. Amounts received with respect to a Member or Deferred Member from the ITT Plan shall be credited under the Plan as follows:

(a) Amounts credited to a Member's or Deferred Member's pre-tax investment account in the ITT Plan shall be credited to his or her Pre-Tax Investment Account.

(b) Amounts credited to a Member's or Deferred Member's after-tax investment account in the ITT Plan shall be credited to his or her ITT After-Tax Investment Account.

(c) Amounts credited to a Member's or Deferred Member's ITT Floor Contribution Account in the ITT Plan shall be credited to his or her ITT Floor Contribution Account.

(d) Amounts credited to a Member's or Deferred Member's rollover account in the ITT Plan shall be credited to his or her Rollover Account.

(e) Amounts credited to a Member's or Deferred Member's ESOP account in the ITT Plan shall be credited to his or her ESOP Account.

(f) Amounts credited to a Member's or Deferred Member's company retirement contribution account in the ITT Plan shall be credited to his or her Retirement Contribution Account.

(g) Amounts credited to a Member's or Deferred Member's company matching contribution account in the ITT Plan shall be credited to his or her Company Matching Contribution Account.

ARTICLE XV
TENDER OFFER

15.1 Applicability. Notwithstanding any other Plan provision to the contrary, the provisions of this Article XV shall apply in the event any person, either alone or in conjunction with others, makes a tender offer, or exchange offer or otherwise offers to purchase or solicits an offer to sell to that person 10% or more of the outstanding shares of a class of ESI Stock held by a Trustee (herein jointly and severally referred to as a "tender offer"). As to any tender offer, each Member and Deferred Member (or Beneficiary in the event of the death of the Member or Deferred Member) shall have the right to determine confidentially whether shares held subject to the Plan will be tendered.

15.2 Instructions to Trustee. In the event a tender offer for ESI Stock is commenced, the Committee, promptly after receiving notice of the commencement of the tender offer, shall transfer certain of its recordkeeping functions to an independent recordkeeper. The functions so transferred shall be those necessary to preserve the confidentiality of any directions given by the Members and Deferred Members (or Beneficiary in the event of the death of the Member or Deferred Member) in connection with the tender offer. A Trustee may not take any action in response to a tender offer except as otherwise provided in this Article XV. Each Member is, for all purposes of this Article XV, hereby designated a named fiduciary within the meaning of Section 402(a)(2) of ERISA, with respect to the shares of ESI Stock allocated to his or her Accounts. Each Member and Deferred Member (or Beneficiary in the event of the death of the Member or Deferred Member) may direct the Trustee to sell, offer to sell, exchange, or otherwise dispose of the ESI Stock allocated to any such individual's Accounts in accordance with the provisions, conditions, and terms of the tender offer and the provisions of this Article XV, provided, however, that such directions shall be confidential and shall not be divulged by the Trustee or independent recordkeeper to the Company or to any director, officer, employee, or agent of the Company, it being the intent of this provision of Section 15.2 to ensure that the Company (and its directors, officers, employees, and agents) cannot determine the direction given by any Member, Deferred Member, or Beneficiary. The instructions shall be in the form and shall be filed in the manner and at the time prescribed by the Trustee.

15.3 Trustee Action on Member Instructions. The Trustee shall sell, offer to sell, exchange, or otherwise dispose of the ESI Stock allocated to a Member's, Deferred Member's, or Beneficiary's Accounts with respect to which it has received directions to do so under this Article XV. The proceeds of a disposition directed by a Member, Deferred Member, or Beneficiary from his or her Accounts under this Article XV shall be allocated to the individual's Accounts and be governed by the provisions of Section 15.5 or other applicable provisions of the Plan and the trust agreements established under the Plan.

15.4 Action With Respect to Members Not Instructing the Trustee or Not Issuing Valid Instructions. To the extent that Members, Deferred Members, and Beneficiaries do not issue valid directions to the Trustee to sell, offer to sell, exchange, or otherwise dispose of the ESI Stock allocated to their Accounts, those individuals shall be deemed to have directed the Trustee that such shares remain invested in ESI Stock subject to all provisions of the Plan, including Section 15.5.

15.5 Investment of Plan Assets after Tender Offer. To the extent possible, the proceeds of a disposition of ESI Stock in an individual's Accounts shall be reinvested in ESI Stock by the Trustee as expeditiously as possible in the exercise of the Trustee's fiduciary responsibility and shall otherwise be held by the Trustee subject to the provisions of the trust agreement and the Plan. In the event that ESI Stock is no longer available to be acquired following a tender offer, the Company may direct the substitution of new employer securities for the ESI Stock or for the proceeds of any disposition of ESI Stock. Pending the substitution of new employer securities or the termination of the Plan and trust, the Trust Fund shall be invested in such securities as the Trustee shall determine; provided, however, that, pending such investment, the Trustee shall invest the cash proceeds in short-term securities issued by the United States of America or any agency or instrumentality thereof or any other investments of a short-term nature, including corporate obligations or participations therein and interim collective or common investment funds.

ARTICLE XVI
GENERAL AND ADMINISTRATIVE PROVISIONS

16.1 Relief from Liability. Except with respect to amounts invested in the ESI Stock Fund, the Plan is intended to constitute a Plan as described in Section 404(c) of ERISA and Title 29 of the Code of Federal Regulations Section 2550.404c-1. The Plan fiduciaries are relieved of any liability for any losses that are the direct and necessary result of investment instructions given by any Member, Deferred Member, or Beneficiary.

16.2 Payment of Expenses.

(a) Direct charges and expenses arising out of the purchase or sale of securities and taxes levied on or measured by such transactions, and any investment management fees, with respect to any Fund, may be paid in whole or in part by the Company. Any such charges, expenses, taxes and fees not paid by the Company shall be paid from the Fund with respect to which they are incurred.

(b) Expenses incurred in conjunction with Plan administration, including, but not limited to, investment management, Trustee, recordkeeping, and audit fees shall be paid from the assets held by the Trust Fund to the extent such expenses are not paid directly by the Company.

16.3 Source of Payment. Benefits under the Plan shall be payable only out of the Trust Fund, and the Company shall not have any legal obligation, responsibility, or liability to make any direct payment of benefits under the Plan. Neither the Company nor the Trustee guarantees the Trust Fund against any loss or depreciation or guarantees the payment of any benefit under the Plan. No person shall have any rights under the Plan with respect to the Trust Fund, or against the Company, except as specifically provided for the Plan.

16.4 Inalienability of Benefits.

(a) Except as specifically provided in the Plan or as applicable law may otherwise require or as may be required under the terms of a Qualified Domestic Relations Order, no benefit under the Plan shall be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, and any attempts to do so shall be void, and no Plan benefit shall be in any manner liable for or subject to debts, contracts, liabilities, engagements, or torts of the person entitled to the benefit. In the event that the Committee finds that any Member, Deferred Member, or Beneficiary who is or may become entitled to benefits hereunder has become bankrupt or that any attempt has been made to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge any of his or her benefits under the Plan, except as specifically provided in the Plan or as otherwise required by applicable law, then the benefit shall cease and terminate, and in that event the Committee shall hold or apply the same to or for the benefit of the Member, Deferred Member, or Beneficiary who is or may become entitled to benefits hereunder, his or her spouse, children, parents or other relatives, or any of them.

(b) Notwithstanding the foregoing, payment shall be made in accordance with the provisions of a Qualified Domestic Relations Order.

Notwithstanding anything herein to the contrary, if the amount payable to an alternate payee under a Qualified Domestic Relations Order is $1,000 (as determined under Section 11.9) or less, the amount shall be paid in one lump sum as soon as practicable following the qualification of the order. If the amount exceeds $1,000 (as determined under Section 11.9), it may be paid as soon as practicable following the qualification of the order if the Qualified Domestic Relations Order so provides and the alternate payee consents thereto; otherwise it may not be payable before the earliest of (i) the Member's Termination of Employment, (ii) the time the amount could be withdrawn under Article X, or (iii) the Member's attainment of age 50. Effective May 16, 2008, the amount "$5,000" shall be substituted for the amount "$1,000" in this Section.

16.5 Prevention of Escheat. If the Committee cannot ascertain the whereabouts of any person to whom a payment is due under the Plan, the Committee may, no earlier than three years from the date the payment is due, mail a notice of the due and owing payment to the last known address of the person, as shown on the records of the Committee or the Company. If the person has not made written claim for the benefit within three months of the date of the mailing, the Committee may, if it so elects and upon receiving advice from counsel to the Plan, direct that the payment and all remaining payments otherwise due such person be canceled on the records of the Plan and the amount thereof applied to

reduce the contributions to the Company. Upon the cancellation, the Plan and the Trust shall have no further liability therefore except that, in the event the person or his beneficiary later notifies the Committee of his or her whereabouts and requests the payment or payments due to him under the Plan, the amount so applied shall be paid to him or her in accordance with the provisions of the Plan.

16.6 Return of Contributions.

(a) If all or part of the Company's deductions for contributions to the Plan are disallowed by the Internal Revenue Service, the portion of the contributions to which that disallowance applies shall be returned to the Company without interest but reduced by any investment loss attributable to those contributions, provided that the contribution is returned within one year after the disallowance of deduction. For this purpose, all contributions made by the Employer are expressly declared to be conditioned upon their deductibility under Code section 404.

(b) The Company may recover without interest the amount of its contributions to the Plan made on account of a mistake of fact, reduced by any investment loss attributable to those contributions, if recovery is made within one year after the date of those contributions.

(c) In the event that Pre-Tax Savings made under Section 4.1 are returned to the Company in accordance with the provisions of this Section 16.6, the elections to reduce Salary that were made by Members on whose behalf those contributions were made shall be void retroactively to the beginning of the period for which those contributions were made. The Pre-Tax Savings so returned shall be distributed in cash to those Members for whom those contributions were made.

16.7 Facility of Payment. If the Committee shall find that a Member or other person entitled to a benefit is unable to care for his or her affairs because of illness or accident or is a minor, the Committee may direct that any benefit due him or her, unless claim shall have been made for the benefit by a duly appointed legal representative, be paid to his or her spouse, a child, a parent or other relative, or to a person with whom he or she resides. Any payment so made shall be a complete discharge of the liabilities of the Plan for that benefit.

16.8 Information. Each Member, Deferred Member, Beneficiary, or other person entitled to a benefit, before any benefit shall be payable to him or her or on his or her account under the Plan, shall file with the Committee the information that it shall require to establish his or her rights and benefits under the Plan.

16.9 Exclusive Benefit Rule. Except as otherwise provided in the Plan, no part of the corpus or income of the funds of the Plan shall be used for, or diverted to, purposes other than for the exclusive benefit of Members and other persons entitled to benefits under the Plan and paying the expenses of the Plan not paid directly by the Company. No person shall have any interest in, or right to, any part of the earnings of the funds of the Plan, or any right in, or to, any part of the assets held under the Plan, except as and to the extent expressly provided in the Plan.

16.10 **No Right to Employment.** Nothing herein contained nor any action taken under the provisions hereof shall be construed as giving any Employee or Member the right to be retained in the employ of the Company.

16.11 **Uniform Action.** Action by the Committee shall be uniform in nature as applied to all persons similarly situated, and no such action shall be taken that will discriminate in favor of any Members who are Highly-Compensated Employees.

16.12 **Headings.** The headings of the sections in this Plan are placed herein for convenience of reference and in the case of any conflict, the text of the Plan rather than the headings, shall control.

16.13 **Construction.** The Plan shall be construed, regulated and administered in accordance with the internal laws of the state of Indiana, subject to the provisions of applicable federal laws.

ARTICLE XVII
TOP-HEAVY PROVISIONS

17.1 **Definitions.** The following definitions apply to the terms used in this Section and will be applied in accordance with Code section 416:

(a) "applicable determination date" means the last day of the later of the first Plan Year or the preceding Plan Year;

(b) "top-heavy ratio" means the ratio of (A) the value of the aggregate of the Accounts under the Plan for key employees to (B) the value of the aggregate of the Accounts under the Plan for all key employees and non-key employees;

(c) "key employee" means any Employee or former Employee (including any deceased Employee) who at any time during the Plan Year that includes the determination date was an officer of the Company having annual Statutory Compensation greater than $130,000 (as adjusted under Code section 416(i)(1)), a 5-percent owner of the Company, or a 1-percent owner of the Company having annual Statutory Compensation of more than $150,000;

(d) "non-key employee" means any Employee who is not a key employee;

(e) "applicable Valuation Date" means the Valuation Date coincident with or immediately preceding the last day of the first Plan Year or the preceding Plan Year, whichever is applicable;

(f) "required aggregation group" means any other qualified plan(s) of the Company or an Associated Company in which there are members who are key employees or that enable(s) the Plan to meet the requirements of Code section 401(a)(4) or 410; and

(g) "permissive aggregation group" means each plan in the required aggregation group and any other qualified plan(s) of the Company or an Associated Company in which all members are non-key employees, if the resulting aggregation group continues to meet the requirements of Code sections 401(a)(4) and 410.

17.2 Determination of Top-Heavy Status. For purposes of this Section, the Plan shall be "top-heavy" with respect to any Plan Year if as of the applicable determination date the top-heavy ratio exceeds 60 percent. The top-heavy ratio shall be determined as of the applicable Valuation Date in accordance with Code sections 416(g)(3) and (4) and Article VIII of this Plan, and shall take into account any contributions made after the applicable Valuation Date but before the last day of the Plan Year in which the applicable Valuation Date occurs. For purposes of determining whether the Plan is top-heavy, the account balances under the Plan will be combined with the account balances or the present value of accrued benefits under each other plan in the required aggregation group and, in the Company's discretion, may be combined with the account balances or the present value of accrued benefits under any other qualified plan in the permissive aggregation group. The accrued benefits and account balances of any Member who has not performed services for the Company during the one-year period ending on the applicable determination date shall not be taken into account. Distributions made with respect to a Member under the Plan during the one-year period ending on the applicable determination date shall be taken into account for purposes of determining the top-heavy ratio. The preceding sentence shall also apply to distributions under a terminated plan which, had it not terminated, would have been aggregated with the Plan under Code section 416(g)(2)(A)(i). In the case of a distribution made for a reason other than severance from employment, death, or disability, this provision shall be applied by substituting five-year period for one-year period.

17.3 Minimum Requirements. For any Plan Year with respect to which the Plan is top-heavy, an additional Company contribution shall be allocated on behalf of each Member (or each Employee eligible to become a Member) who is not a "key employee," and who has not separated from service as of the last day of the Plan Year, to the extent that the amounts allocated to his or her Accounts as a result of contributions made on his or her behalf under Sections 5.1 and 5.2 for the Plan Year would otherwise be less than 3 percent of his or her Statutory Compensation. However, if the greatest percentage of Statutory Compensation contributed on behalf of a "key employee" under Section 4.1 or allocated to his or her Accounts as a result of contributions made pursuant to Section 5.1 for the Plan Year would be less than 3%, that lesser percentage shall be substituted for "3%" in the preceding sentence. Notwithstanding the foregoing provisions of this Section 17.3, no minimum contribution shall be made with respect to a Member if the required minimum benefit under Code section 416(c)(1) is provided by the ESI Pension Plan.

ARTICLE XVIII
MINIMUM DISTRIBUTION REQUIREMENTS

18.1 General Rules. The requirements of this Article will take precedence over any inconsistent provision of the Plan. All distributions required under this Article will be determined and made in accordance with the Treasury Regulations under Code section 401(a)(9).

18.2 Time and Manner of Distribution.

(a) Required Beginning Date. The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's required beginning date.

(b) Death of Member Before Distributions Begin. Unless the Member or Beneficiary elects to apply the Five-Year Rule as provided in Section 18.5, if the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) If the Member's surviving spouse is the Member's sole designated Beneficiary, then distributions to the surviving spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age 70 $^{1}/_{2}$, if later.

(ii) If the Member's surviving spouse is not the Member's sole designated Beneficiary, then distributions to the Beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died.

(iii) If there is no designated Beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(iv) If the Member's surviving spouse is the Member's sole designated Beneficiary and the surviving spouse dies after the Member but before distributions to the surviving spouse begin, this paragraph (b), other than paragraph (b)(i), will apply as if the surviving spouse were the Member.

For purposes of this Section 18.2(b) and Section 18.4, unless Section 18.2(b)(iv) applies, distributions are considered to begin on the Member's required beginning date. If Section 18.2(b)(iv) applies, distributions are considered to begin on the date distributions are required to begin to the surviving spouse under Section 18.2(b)(i). If distributions under an annuity purchased from an insurance company irrevocably commence to the Member before the Member's required beginning date (or to the Member's surviving spouse before the date distributions are required to begin to the surviving spouse under Section 18.2(b)(i)), the date distributions are considered to begin is the date distributions actually commence.

(c) Forms of Distribution. Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the required beginning date, as of the first distribution calendar year, distributions

will be made in accordance with Sections 18.3 and 18.4. If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401(a)(9) and the Treasury Regulations.

18.3 Required Minimum Distributions During Member's Lifetime.

(a) Amount of Required Minimum Distribution For Each Distribution Calendar Year. During the Member's lifetime, the minimum amount that will be distributed for each distribution calendar year is the lesser of:

(i) The quotient obtained by dividing the Member's Account balance by the distribution period in the Uniform Lifetime Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Member's age as of the Member's birthday in the distribution calendar year; or

(ii) If the Member's sole designated Beneficiary for the distribution calendar year is the Member's spouse, the quotient obtained by dividing the Member's Account balance by the number in the Joint and Last Survivor Table set forth in Section 1.401(a)(9)-9 of the Treasury Regulations, using the Member's and spouse's attained ages as of the Member's and spouse's birthdays in the distribution calendar year.

(b) Lifetime Required Minimum Distributions Continue Through Year of Member's Death. Required minimum distributions will be determined under this Section 18.3 beginning with the first distribution calendar year and up to and including the distribution calendar year that includes the Member's date of death.

18.4 Required Minimum Distributions After Member's Death.

(a) Death On or After Date Distributions Begin.

(i) Member Survived by Designated Beneficiary. If the Member dies on or after the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Member's death is the quotient obtained by dividing the Member's Account balance by the longer of the remaining life expectancy of the Member or the remaining life expectancy of the Member's designated Beneficiary, determined as follows:

(A) The Member's remaining life expectancy is calculated using the age of the Member in the year of death, reduced by one for each subsequent year.

(B) If the Member's surviving spouse is the Member's sole designated Beneficiary, the remaining life expectancy of the surviving spouse is calculated for each distribution calendar year after the year of the Member's death using the surviving spouse's age as of the

spouse's birthday in that year. For distribution calendar years after the year of the surviving spouse's death, the remaining life expectancy of the surviving spouse is calculated using the age of the surviving spouse as of the spouse's birthday in the calendar year of the spouse's death, reduced by one for each subsequent calendar year.

(C) If the Member's surviving spouse is not the Member's sole designated Beneficiary, the Beneficiary's remaining life expectancy is calculated using the age of the Beneficiary in the year following the year of the Member's death, reduced by one for each subsequent year.

(ii) No Designated Beneficiary. If the Member dies on or after the date distributions begin and there is no designated Beneficiary as of September 30 of the year after the year of the Member's death, the minimum amount that will be distributed for each distribution calendar year after the year of the Member's death is the quotient obtained by dividing the Member's Account balance by the Member's remaining life expectancy calculated using the age of the Member in the year of death, reduced by one for each subsequent year.

(b) Death Before Date Distributions Begin. Unless the Member or Beneficiary elects to apply the Five-Year Rule as provided in Section 18.5, if the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(i) Member Survived by Designated Beneficiary. If the Member dies before the date distributions begin and there is a designated Beneficiary, the minimum amount that will be distributed for each distribution calendar year after the year of the Member's death is the quotient obtained by dividing the Member's Account balance by the remaining life expectancy of the Member's designated Beneficiary, determined as provided in paragraph (a).

(ii) No Designated Beneficiary. If the Member dies before the date distributions begin and there is no designated Beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(iii) Death of Surviving Spouse Before Distributions to Surviving Spouse Are Required to Begin. If the Member dies before the date distributions begin, the Member's surviving spouse is the Member's sole designated Beneficiary, and the surviving spouse dies before distributions are required to begin to the surviving spouse under Section 18.2(b)(i), this paragraph (b) will apply as if the surviving spouse were the Member.

18.5 Election to Use Five-Year Rule. A Member or Beneficiary may elect to apply the Five-Year Rule or the life expectancy rule of Sections 18.2(b) or 18.4(b). The Member's or Beneficiary's election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Section 18.2(b), or by September 30 of the calendar year which contains the fifth anniversary of the Member's (or, if applicable, surviving spouse's) death.

18.6 Definitions.

(a) Designated Beneficiary. A "designated Beneficiary" is an individual who is designated as the Beneficiary under Section 2.10 of the Plan and is the designated Beneficiary under Code section 401(a)(9) and Treasury Regulation 1.401(a)(9)-4.

(b) Distribution Calendar Year. A "distribution calendar year" is the calendar year for which a minimum distribution is required. For distributions beginning before the Member's death, the first distribution calendar year is the calendar year immediately preceding the calendar year which contains the Member's required beginning date. For distributions beginning after the Member's death, the first distribution calendar year is the calendar year in which distributions are required to begin under Section 18.2(b). The required minimum distribution for the Member's first distribution calendar year will be made on or before the Member's required beginning date. The required minimum distribution for other distribution calendar years, including the required minimum distribution for the distribution calendar year in which the Member's required beginning date occurs, will be made on or before December 31 of that distribution calendar year.

(c) Five-Year Rule. The "Five-Year Rule" requires that a Member's entire interest be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(d) Life Expectancy. "Life expectancy" is the life expectancy computed by use of the Single Life Table in Treasury Regulation 1.401(a)(9)-9.

(e) Member. For purposes of Article XVIII of the Plan, the term "Member" includes any Member and, where applicable, any Deferred Member.

(f) Member's Account Balance. A Member's "Account balance" is the Account balance as of the last Valuation Date in the calendar year immediately preceding the distribution calendar year (valuation calendar year) increased by the amount of any contributions made and allocated or forfeitures allocated to the Account balance as of dates in the valuation calendar year after the Valuation Date and decreased by distributions made in the valuation calendar year after the Valuation Date. The Account balance for the valuation calendar year includes any amounts rolled over or transferred to the Plan either in the valuation calendar year or in the distribution calendar year if distributed or transferred in the valuation calendar year.

(g) Required Beginning Date. "Required beginning date" is the first day of April following the calendar year in which occurs the later of (i) the date the Member attains age 70 1/2, or (ii) the date the Member terminates employment.

This ESI 401(k) Plan, as restated effective January 1, 2012, is executed on behalf of ITT Educational Services, Inc. by its duly authorized officer as of the 28th day of November, 2011.

ITT EDUCATIONAL SERVICES, INC.

By /s/ Nina Esbin

Signature

Nina Esbin

Printed Name

SVP, Human Resources

Office

Attest:

/s/ Carolyn K. Herald

(Signature)

Carolyn K. Herald

(Printed

Retirement Specialist

(Title)

Schedule A to ESI 401(k) Plan

Pursuant to Section 3.1(d) of the Plan, this Schedule A identifies nonhighly-compensated employees who became Members as of an early date.

Effective January 1, 2012, no employee has become a Member as of an early date.

Exhibit 10.22

ESI PENSION PLAN

2012 Restatement

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ARTICLE I
GENERAL PROVISIONS

Section 1.01. Designation and Purpose. This Plan is a continuation and complete restatement of the ESI Pension Plan originally effective June 9, 1998. The effective date of the Plan, as restated, is January 1, 2012, except as otherwise provided. The Plan is a cash balance defined benefit plan. The Plan's purpose is to provide retirement income for Eligible Employees, and the Plan is designed to meet the requirements of Code sections 401(a) and 501(a) and the requirements of ERISA. The Plan is frozen with respect to Employees who first complete an Hour of Service on or after June 2, 2003 and certain other employees, and frozen with respect to accruals after March 31, 2006.

Section 1.02. Trust Agreement. Effective as of the date of its execution, ESI entered into a Trust Agreement with Bank One Trust Company, N.A., providing for a trust to support and implement the operation of the Plan. The Trust Agreement, as amended from time to time, is part of this Plan.

ARTICLE II
DEFINITIONS

Section 2.01. Terms Defined. As used in the Plan, the following words and phrases, when capitalized, will have the following meanings, unless a different meaning is plainly required by the context.

"Actuarial Equivalent" means, with respect to a benefit, another benefit that has the same actuarially-determined value. The determination of an Actuarial Equivalent benefit will be computed using the mortality table as prescribed in Revenue Ruling 2001-62, and an interest rate equal to an Applicable Percentage for that Plan Year. For purposes of distributions with Annuity Starting Dates on or after December 31, 2007, and notwithstanding any other Plan provisions to the contrary, the applicable mortality table used for purposes of adjusting any benefit or limitation under Code sections 415(b)(2)(B), (C) or (D) as set forth in Section 11.02 of the Plan is the table prescribed in Code section 417(e)(3)(A)(ii)(I).

"Aggregation Group" means either a Required Aggregation Group or a Permissive Aggregation Group.

"Annual Addition" means, with respect to a Member for a Plan Year, the following amounts credited to a Member's accounts in any qualified defined contribution plan maintained by the Employer or a Related Employer for the Plan Year: employer contributions, employee contributions (other than rollover contributions); forfeitures; amounts allocated, after March 31, 1984, to an individual medical account, as defined in Code section 415(l)(2), that is part of a pension or annuity plan maintained by the Employer or a Related Employer; and amounts derived from contributions paid or accrued after March 31, 1984, that are attributable to post-retirement medical benefits, allocated to the separate account of a Key Employee, under a welfare benefit fund, as defined in Code section 419(e), maintained by the Employer or a Related Employer.

"Annuity Starting Date" means, with respect to a Member, the first day of the first period for which a Plan benefit is paid as an annuity or, in the case of a benefit not paid in the form of an annuity, the first day on which all events have occurred that entitle the Member to the benefit.

"Applicable Election Period" means, in the case of an election to waive a Qualified Joint and Survivor Annuity or Life Annuity (a) the 90-day period ending on the Annuity Starting Date or (b) the 30-day period beginning on the date the Committee provides the Member with the written explanation described in Section 7.06, whichever ends later. In the case of an election to waive the Qualified Preretirement Survivor Annuity, "Applicable Election Period" means (a) the period that begins on the first day of the Plan Year in which the Member reaches age 35 and ends on the date of the Member's death or (b) if a Member's employment is earlier terminated, with respect to benefits accrued before the termination, the period that begins no later than the date of the termination and ends on the date of the Member's death.

"Applicable Percentage" means, with respect to a Plan Year, the annual rate of interest on 30-year Treasury securities for November of the year preceding that Plan Year, as specified by the Commissioner of Internal Revenue.

"Beneficiary" means the person or persons designated pursuant to Section 7.15 to receive benefits under the Plan after a Member's death.

"Board of Directors" means the Board of Directors of ESI.

"Break in Service" means a Plan Year during which an Employee completes 500 or fewer Hours of Service.

"Cash Balance Account" means a bookkeeping account maintained for a Member pursuant to Section 6.01.

"Code" means the Internal Revenue Code of 1986, as amended from time to time, and interpretive rulings and regulations.

"Committee" means the Plan Committee established pursuant to Article VIII.

"Compensation" means, with respect to an Employee for a Plan Year, the Employee's wages, salaries, fees for professional services, retention bonuses, other amounts received for personal services actually rendered in the course of employment with the Employer to the extent that the amounts are included in gross income, amounts contributed by the Employer pursuant to a salary reduction agreement that are not includable in the gross income of the Member under Code section 125, 132(f)(4), 402(e)(3), 402(h), 403(b), or 457, and Employee contributions described in Code section 414(h)(2) that are treated as Employer contributions. Compensation does not include, whether or not included in gross income, reimbursements or other expense allowances; fringe benefits (cash and non-cash); moving expenses (including settling in allowances); nonqualified deferred compensation; welfare benefits; amounts realized from the exercise of a nonqualified stock option or when restricted stock (or property) held by

an employee either becomes freely transferable or is no longer subject to a substantial risk of forfeiture; severance pay and any other amounts paid after severance from employment, other than regular compensation for services during or outside regular working hours that is paid within 2 $^{1}/_{2}$ months of severance from employment or, if later, by the last day of the Plan Year in which employment was severed, and other than "differential wage payments" described in Code section 3401(h)(2); and salary continuation payments to Participants who do not perform services for the Employer by reason of disability leave. An Employee's Compensation will not exceed $200,000, as adjusted for cost-of-living increases in accordance with Code section 401(a)(17)(B).

"Compensation Limit" means the limitation on annual benefits described with reference to a Member's average Compensation at Subsection 11.02(a).

"Continuous Service" means the aggregate period of time during which the employment relationship exists between an Employee and the Employer, determined as follows:

(1) The period of time beginning on the date an Employee first performs an Hour of Service and ending on the Employee's Severance from Service date.

(2) Any Period of Severance by reason of a quit, discharge or retirement, of less than 12 months; provided, however, that if an Employee is absent from service for a reason other than a quit, discharge, or retirement and subsequently incurs a Severance from Service as a result of a quit, discharge, or retirement, the Period of Severance shall be credited only if the Employee returns to the Employer's service on or before the first anniversary of the date the Employee was first absent from service.

(3) Any period of time beginning on the date the Employee first performs an Hour of Service after a Period of Severance and ending on the date the Employee again incurs a Severance from Service.

(4) For purposes of aggregating periods of Continuous Service, 12 months of completed service shall equal one year of Continuous Service, and 30 days of completed service shall equal one month of Continuous Service.

"Determination Date" means, for purposes of determining whether the Plan is a Top-Heavy Plan for any Plan Year, the last day of the preceding Plan Year; for the first Plan Year, the last day of the Plan Year.

"Direct Rollover" means a payment by the Plan to the Eligible Retirement Plan specified by the Distributee.

"Disability" means a total disability within the meaning of ESI's long-term disability insurance plan, as amended from time to time, whether or not the Member actually participates in ESI's long-term disability insurance plan.

"Disability Date" means, with respect to a Member, the date the Member is first determined by the Committee to have a Disability.

"Distributee" means an Employee or former Employee. In addition, the Employee's or former Employee's surviving Spouse and the Employee's or former Employee's Spouse or former Spouse who is the alternate payee under a Qualified Domestic Relations Order are Distributees with regard to the interest of the Spouse or former Spouse.

"Dollar Limit" means the limitation on annual benefits described with reference to $160,000 at Subsection 11.02(a).

"Effective Date" means June 9, 1998.

"Eligible Employee" means an Employee other than (a) a federal work study student; (b) a non-resident alien; (c) a Leased Employee; (d) an Employee who is covered by a collective bargaining agreement that does not provide for Plan membership; (e) an Employee accruing benefits for current service under any other qualified defined benefit plan or qualified defined contribution plan maintained by the Employer or a Related Employer (other than the ESI 401(k) Plan); (f) an Employee who first completes an Hour of Service on or after June 2, 2003; or (g) an Employee who first completes an Hour of Service before June 2, 2003, but terminates employment with the Employer before completing a Year of Eligibility Service or a year of Continuous Service and returns after incurring a one-year Break in Service or a one-year Period of Severance.

"Eligible Retirement Plan" means any of the following that accepts the Distributee's Eligible Rollover Distribution: subject to the applicable requirements of Code section 408A, a Roth IRA described in Code section 408A; an individual retirement account described in Code section 408(a); an individual retirement annuity described in Code section 408(b); an annuity plan described in Code section 403(a); a qualified trust described in Code section 401(a); an annuity contract described in Code section 403(b); and an eligible plan under Code section 457(b), which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this Plan.

"Eligible Rollover Distribution" means any distribution of all or a portion of the balance to the credit of the Distributee, except that an Eligible Rollover Distribution does not include any distribution that is one of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the Distributee or the joint lives (or joint life expectancies) of the Distributee and the Distributee's Beneficiary, or for a specified period of ten years or more; any distribution to the extent that the distribution is required under Code section 401(a)(9); and the portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities).

"Employee" means any person employed by the Employer as a salaried employee, who is paid from a payroll maintained in the United States, and who receives compensation that the Employer initially reports on a federal wage and tax statement (Form W-2). For purposes of crediting Years of Eligibility Service or Years of Vesting Service and, except as otherwise provided, for purposes of Articles XI and XIII, the term "Employee" includes a Leased Employee.

"Employer" means ESI and any Related Employer that adopts the Plan. For purposes of crediting service for eligibility to participate and, except as otherwise provided, for purposes of the rules set out in Articles XI and XIII, the term "Employer" includes any Related Employer.

"Entry Date" means the first day of each calendar month.

"ERISA" means the Employee Retirement Income Security Act of 1974, as amended from time to time, and interpretive rulings and regulations.

"ESI" means ITT Educational Services, Inc., and any corporation that succeeds to its business and adopts the Plan.

"Final Quarter" means the period beginning January 1, 2006 and ending March 31, 2006.

"Full-Time Employee" means an Employee who regularly works at least 40 hours per week.

"Freeze Date" means March 31, 2006. The Freeze Date is the date as of which benefit accruals cease under the Plan.

"Highly Compensated Member" means a highly compensated active Employee or a highly compensated former Employee.

(a) With respect to a Plan Year, a highly compensated active Employee includes any Employee who performs service for the Employer during the Plan Year and who (1) is a 5% owner for that Plan Year or was a 5% owner for the prior Plan Year or (2) for the prior Plan Year received Compensation from the Employer in excess of $80,000 (as adjusted pursuant to Code section 415(d)). The Employer does not elect to require that a highly compensated active employee must be a member of the Employer's top-paid group for the preceding Plan Year.

(b) With respect to a Plan Year, a highly compensated former Employee includes any Employee who terminated employment (or was deemed to have terminated employment) prior to the Plan Year, performs no service for the Employer during the Plan Year, and was a highly compensated active Employee for either the Plan Year during which he terminated employment or any Plan Year ending on or after the Employee's 55th birthday.

(c) The determination of who is a Highly Compensated Member will be made in accordance with Code section 414(q).

"Hour of Service" means each hour for which an Employee is entitled to credit under this Subsection.

(a) An Employee is entitled to credit for each hour for which he is paid, or entitled to payment, for the performance of duties for the Employer. Subject to the provisions of Paragraph (f), an Hour of Service described in this Paragraph will be credited to an Employee for the computation period in which the duties are performed.

(b) An Employee is entitled to credit for each hour for which he is paid, or entitled to payment, by the Employer on account of a period during which no duties are performed (irrespective of whether the employment relationship has terminated) due to vacation, holiday, illness, incapacity (including disability), layoff, jury duty, military duty, or leave of absence; provided, however, that no Hours of Service will be credited under this Paragraph if payment is made or due solely to reimburse an Employee for medical or medically related expenses or solely for the purpose of complying with applicable workers' compensation, unemployment compensation, or disability insurance laws. No more than 501 Hours of Service will be credited to an Employee on account of any single continuous period during which the Employee performs no duties (whether or not this period occurs in a single Plan Year) unless the Hours of Service are credited pursuant to Paragraph (d). Subject to the provisions of Paragraph (f), an Hour of Service credited to an Employee pursuant to this Paragraph will be credited to the computation period or periods during which no duties are performed.

(c) An Employee is entitled to credit for each hour for which back pay, irrespective of mitigation of damages, is either awarded or agreed to by the Employer. The same Hour of Service will not be credited under Paragraph (a) or Paragraph (b), as the case may be, and under this Paragraph. An Hour of Service described in this Paragraph will be credited to the computation period or periods to which the award or agreement for back pay pertains, rather than to the computation period in which the award, agreement, or payment is made.

(d) For eligibility and vesting purposes only, "Hours of Service" will be credited to an Employee for military leave for training or service, or both, if that Employee is entitled to be credited with service for his period of military leave upon his reemployment with the Employer under applicable federal law. An Employee will be credited with 190 Hours of Service for each month of military leave.

(e) Solely for purposes of determining whether a Break in Service has occurred for eligibility and vesting purposes, an Employee who is absent from work for maternity or paternity reasons will receive credit for the Hours of Service that would otherwise have been credited to the Employee but for the absence, or in any case in which those hours cannot be determined, eight Hours of

Service per day of the absence. For purposes of this Paragraph, an absence from work for maternity or paternity reasons means an absence (1) by reason of the pregnancy of the Employee, (2) by reason of a birth of a child of the Employee, (3) by reason of the placement of a child with the Employee in connection with the adoption of the child by the Employee, or (4) for purposes of caring for the child for a period beginning immediately following its birth or placement. The total number of hours treated as Hours of Service under this Paragraph by reason of any absence may not exceed 501. The Hours of Service credited under this Paragraph will be credited (1) to the computation period in which the absence begins if the crediting is necessary to prevent a Break in Service in that period or (2) in all other cases, to the following computation period. No Hours of Service will be credited pursuant to this Paragraph unless the Employee furnishes to the Committee such timely information as the Committee may reasonably require to establish (1) that the absence from work is for reasons referred to in this Paragraph and (2) the number of days of the absence.

(f) All regulations promulgated by the U.S. Secretary of Labor or his delegate applicable to the computation and crediting of Hours of Service under ERISA, including 29 C.F.R. § 2530.200(b)-2, are incorporated as part of the Plan. The provisions of the Plan are intended to comply with the regulations and will be construed and applied to effect compliance.

"ITT Plan" means the ITT Retirement Plan for Salaried Employees of ITT Corporation, as in effect immediately prior to June 9, 1998.

"Key Employee" means any Employee or former Employee (including any deceased Employee) who at any time during the Plan Year that includes the Determination Date was an officer of the Employer having annual Compensation greater than $130,000 (as adjusted under Code section 416(i)(1) for Plan Years beginning after December 31, 2002), a 5-percent owner of the Employer, or a 1-percent owner of the Employer having annual Compensation of more than $150,000.

"Leased Employee" means any person who performs services for the Employer, but who is not an employee of the Employer, if the services are provided pursuant to an agreement between the Employer and any other person, the person has performed the services for the Employer (or for the Employer and related persons) on a substantially full-time basis for a period of at least one year, and the services are performed under the primary direction or control of the Employer. A person will not be considered a Leased Employee if:

(a) the person is covered by a money purchase pension plan providing:

(1) a non-integrated employer contribution rate of at least 10% of compensation, as defined in Code section 415(c)(3), which includes amounts contributed pursuant to a salary reduction agreement that are excludable from the person's gross income under Code section 125, 402(a)(8), 402(h), or 403(b),

(2) immediate participation, and

(3) full and immediate vesting; and

(b) the person, together with all other persons who would otherwise be considered Leased Employees, do not constitute more than 20% of the Employer's non-highly compensated workforce.

"Life Annuity" means a level monthly annuity beginning on the applicable Annuity Starting Date and continuing for the life of the Member.

"Member" means any Eligible Employee who has met the eligibility requirements set forth in Article III and for whom benefits are to be provided under the Plan.

"Non-Key Employee" means any Employee (including a Beneficiary of the Employee) who is not a Key Employee.

"Normal Retirement Date" means, with respect to each Member, the first day of the month following the date the Member has both reached age 55 and completed five Years of Vesting Service.

"Period of Severance" means a period of time that begins on the Severance from Service date and ends on the date on which an Employee again performs an Hour of Service.

"Permissive Aggregation Group" means an Aggregation Group that may include any other plan not required to be included in the Required Aggregation Group, provided the resulting group, taken as a whole, would continue to satisfy the provisions of Code sections 401(a)(4) and 410.

"Plan" means the ESI Pension Plan, as amended from time to time.

"Plan Year" means the period from the Effective Date through December 31, 1998 and any subsequent calendar year.

"Qualified Domestic Relations Order" means a qualified domestic relations order within the meaning of Code section 414(p).

"Qualified Joint and Survivor Annuity" means an immediate level monthly annuity beginning on the applicable Annuity Starting Date and continuing for the life of the Member, with a survivor annuity to and for the life of his Spouse, in a monthly amount equal to one-half of the monthly amount payable during the joint lives of the Member and his Spouse.

"Qualified Joint and 75% Survivor Annuity" means an immediate level monthly annuity beginning on the applicable Annuity Starting Date and continuing for the life of the Member, with a survivor annuity to and for the life of his Spouse, in a monthly amount equal to 75% of the monthly amount payable during the joint lives of the Member and his Spouse.

"Qualified Preretirement Survivor Annuity" means a level monthly annuity beginning on the applicable Annuity Starting Date and continuing for the life of a Member's Spouse.

"Regular Part-Time Employee" means an Employee who regularly works at least 20 hours per week, but less than 40 hours per week.

"Related Employer" means any employer that, together with the Employer, is under common control or a member of an affiliated service group, as determined under Code sections 414(b), (c), (m), and (o). In determining whether an Employer is a member of a controlled group for purposes of Article XI, the rules of Code sections 414(b) and (c) will be applied as modified by Code section 415(h).

"Required Aggregation Group" is a group of Retirement Plans comprising:

(a) each Retirement Plan of the Employer, including any terminated Retirement Plan, in which a Key Employee has been a Member in the Plan Year containing the Determination Date or any of the four preceding Plan Years; and

(b) each other Retirement Plan of the Employer that has enabled a Retirement Plan described in Paragraph (a) to meet the requirements of Code section 401(a)(4) or 410 during the period described in Paragraph (a).

"Required Beginning Date" means, with respect to a Member who is not a 5% owner as described in Code section 416 and who did not reach age 70 $^{1}/2$ before January 1, 1997, April 1 of the calendar year following the later of (a) the calendar year in which the Member Separates from Service and (b) the calendar year in which the Member reaches age 70 $^{1}/2$. "Required Beginning Date" means, with respect to a Member who is a 5% owner as described in Code section 416 or a Member who reached age 70 $^{1}/2$ before January 1, 1997, April 1 of the calendar year following the calendar year in which the Member reaches age 70 $^{1}/2$.

"Retirement Plan" means a retirement program of the Employer intended to qualify under Code section 401(a).

"Secretary" means the U.S. Secretary of Treasury or his delegate.

"Separates from Service" or "Separation from Service" means any termination of the employment relationship between an Employee and the Employer; provided, however, that it does not mean:

(a) temporary absence of the Employee due to vacation, sickness, strike, seasonal layoff, or similar cause,

(b) a leave of absence for any reason approved by the Employer on a nondiscriminatory basis,

(c) military leave to the extent that the Employee is credited with Hours of Service for the leave, or

(d) the first 12 months of a period of total disability as determined by the Social Security Administration or the Plan Committee.

For this purpose, the term "Employer" includes all Related Employers, and an Employee or former Employee will not be treated as having incurred a Separation from Service until the employment relationship between the Employee and all Related Employers is terminated.

"Severance from Service" occurs on the earlier of the following two dates:

(1) The date the Employee quits, is discharged, retires or dies; or

(2) The later of:

(A) the first anniversary of the first day the Employee is absent from the service of the Employer for a reason not enumerated in Paragraph (1);

(B) the expiration of an authorized leave of absence, provided the Employee does not return to the service of the Employer following the expiration of the leave of absence;

(C) in the case of an absence due to maternity or paternity leave for reason of the birth of a child of the Employee, the placement of a child with the Employee in connection with the adoption of the child by the Employee, or the caring for a child for a period immediately following birth or placement, the second anniversary of the date the absence commences; or

(D) any period of military service in the Armed Forces of the United States required to be credited by law; provided, however, that the Employee does not return to the service of the Employer within the period the Employee's reemployment rights are protected by law.

"Social Security Retirement Age" means (a) age 65 for a Member born before January 1, 1938, (b) age 66 for a Member born after December 31, 1937, but before January 1, 1955, and (c) age 67 for a Member born after December 31, 1954.

"Spouse" means, with respect to any Member, the Member's lawfully married spouse, if any, on the applicable date. The Plan will not recognize common law marriages or similar arrangements unless required to do so by federal law. A former Spouse will also be considered a Spouse to the extent provided under a Qualified Domestic Relations Order.

"Top-Heavy Group" means an Aggregation Group described in Section 13.02(b).

"Top-Heavy Plan" means a Retirement Plan described in Section 13.02(a).

"Transition Member" means a Member who, as of December 31, 1998, has either (a) reached age 50 and completed 10 Years of Benefit Service, or (b) completed 15 Years of Benefit Service.

"Trust" means the trust established by the Employer under the Plan.

"Trust Agreement" means the agreement between the Employer and the Trustee establishing the Trust to implement and support the operation of the Plan.

"Trust Assets" means the assets of the Trust.

"Trustee" means the original trustee of the Trust and any person becoming successor trustee of the Trust.

"Year of Benefit Service" means, for any Employee, a Plan Year ending before January 1, 2006 during which the Employee has completed at least 1,000 Hours of Service. A Year of Benefit Service will always be measured in whole years, and any Plan Year during which an Employee has completed less than 1,000 Hours of Service will be disregarded in determining the number of the Employee's Years of Benefit Service. If an Employee Separates from Service and is subsequently reemployed by an Employer, his benefit service accrued prior to his Separation from Service will be restored to him immediately, and he will immediately begin accruing benefit service for the period of his reemployment occurring prior to January 1, 2006. For purposes of this Subsection, any benefit service with ITT Corporation or any of its affiliated companies that was credited to an Employee under the ITT Plan as of the Effective Date will be treated as benefit service with the Employer under this Plan. Notwithstanding the preceding provisions, an Employee will receive credit for a partial Year of Benefit Service as provided in Section 6.05.

"Year of Eligibility Service" means an eligibility computation period during which an Employee completes at least 1,000 Hours of Service. The first eligibility computation period is the 12-month period beginning on the date the Employee first completes an Hour of Service. Thereafter, the Employee's eligibility computation period is the Plan Year, beginning with the first Plan Year that begins after the date on which the Employee's employment began. If an Employee Separates from Service before completing a Year of Eligibility Service, thereafter incurs a Break in Service, and is later reemployed, his eligibility computation period for the period after his reemployment will be recalculated as if he had not been previously employed. Years of Eligibility Service before five or more consecutive Breaks in Service will not be considered Years of Eligibility Service if the number of consecutive Breaks in Service equals or exceeds the Years of Vesting Service credited to the Employee and the Employee was not vested in any portion of his Plan benefit at the time the Breaks in Service occurred, unless the Employee completes a period of eligibility service with the Employer after the Break in Service equal to the lesser of (1) the number of the Employee's consecutive Breaks in Service or (2) 10 Years of Eligibility Service.

For purposes of this definition, any eligibility service with ITT Corporation or any of its affiliated companies that was credited to an Employee under the ITT Plan as of the Effective Date will be treated as eligibility service with the Employer under this Plan.

"Year of Vesting Service" means, for any Employee, a Plan Year during which the Employee has completed not fewer than 1,000 Hours of Service; provided, however, that the following shall not be considered Years of Vesting Service:

(a) For purposes of determining the vested percentage of a Member's benefit that accrued before five or more consecutive Breaks in Service, Years of Vesting Service occurring after the Breaks in Service; and

(b) For purposes of determining the vested percentage of a Member's benefit for a Member who is not vested in any portion of his Plan benefit at the time the Breaks in Service occurred, Years of Vesting Service before five or more consecutive Breaks in Service, if the number of the consecutive Breaks in Service equals or exceeds the Years of Vesting Service credited to the Employee before the Breaks in Service occurred, unless the Member completes a period of eligibility service with the Employer after the Breaks in Service equal to the lesser of (1) the number of his consecutive Breaks in Service or (2) 10 Years of Eligibility Service.

For purposes of this definition, any vesting service with ITT Corporation or any of its affiliated companies that was credited to an Employee under the ITT Plan as of the Effective Date will be treated as vesting service with the Employer under this Plan.

Section 2.02. Rules of Construction. The following rules of construction will govern in interpreting the Plan:

(a) In resolving any conflict between provisions of this Plan and any other uncertainty as to the meaning or intention of any provision of this Plan, the interpretation that will prevail is the interpretation that (1) causes the Plan to constitute a qualified plan under the provisions of Code section 401, with the contributions of the Employer to the Trust as items deductible by the Employer from net income for federal income tax purposes and (2) causes the Plan to comply with all applicable requirements of ERISA.

(b) Other than as specified in Subsection (a), the provisions of this Plan will be construed and governed in all respects under and by the internal laws of the State of Indiana.

(c) Words used in the masculine gender will be construed to include the feminine gender, where appropriate.

(d) Words used in the singular will be construed to include the plural, where appropriate, and vice versa.

(e) The headings and subheadings in the Plan are inserted for convenience of reference only and are not to be considered in the construction of any provision of the Plan.

(f) If any provision of this Plan is held to violate the Code or ERISA or to be illegal or invalid for any other reason, that provision will be deemed to be null and void, but the invalidation of that provision will not otherwise impair or affect the Plan.

ARTICLE III
MEMBERSHIP

Section 3.01. Date of Membership. Each Eligible Employee who was a Member on December 31, 2011, will remain a Member on January 1, 2012, subject to the terms of the Plan in effect on and after that date. Each Eligible Employee who was not a Member on December 31, 2011, but who is credited with an Hour of Service on or after January 1, 2012, will become a Member in accordance with the provisions of this Section.

(a) Each Eligible Employee who is not a Full-Time Employee or a Regular Part-Time Employee will become a Member on the first Entry Date that occurs on or after the date he has both reached age 21 and has completed one Year of Eligibility Service. A former Eligible Employee who has previously completed one Year of Eligibility Service, but who has not become a Member, will become a Member as of the first Entry Date on or after he has both reached age 21 and has completed an Hour of Service upon his reemployment as an Eligible Employee. An Eligible Employee who becomes a Member and Separates from Service will again become a Member on the date he first completes an Hour of Service after his reemployment as an Eligible Employee.

(b) Each Eligible Employee who is a Full-Time Employee or a Regular Part-Time Employee will become a Member on the First Entry Date that occurs on or after the date he has both reached age 21 and has completed one year of Continuous Service. If an Employee incurs a Severance from Service before completing a year of Continuous Service, thereafter incurs at least a 12-month Period of Severance and is then reemployed, his Period of Severance will not be counted as Continuous Service in determining the date he completes a year of Continuous Service after his reemployment. If an Employee incurs a Severance from Service before completing a year of Continuous Service, thereafter incurs a Period of Severance of less than 12 months and is then reemployed, his Period of Severance will be counted as Continuous Service in determining the date he completes a year of Continuous Service after his reemployment. A former Eligible Employee who has previously completed one year of Continuous Service, but who has not become a Member, will become a Member as of the first Entry Date on or after he has both reached age 21 and has completed an Hour of Service upon his reemployment as an Eligible Employee. An Eligible Employee who becomes a Member and then incurs a 12-month period of Severance will again become a Member on the date he first completes an Hour of Service after his reemployment as an Eligible Employee.

(c) Notwithstanding the preceding Paragraphs, the period of an Employee's employment prior to January 1, 2001 that was recognized as eligibility service under the terms of the Plan then in effect will be recognized as eligibility service on January 1, 2001. Recognition of service will be in accordance with the transition rules set forth in Treasury Regulation § 1.410(a)-7(f) and (g).

Section 3.02. Cessation of Membership. A Member will cease to be a Member on the date as of which (a) he is no longer an Eligible Employee and (b) all of his Plan benefits have been distributed.

Section 3.03. Transfers of Employment. If a Member transfers from one Employer to another Employer and remains an Eligible Employee, his membership in the Plan will continue as if no transfer occurred. If a Member transfers from an Employer to a Related Employer that does not participate in the Plan, or if a Member transfers to another Employer and is no longer considered an Eligible Employee, the following will occur:

(a) The Member's benefit will remain in the Plan, and the Member's Cash Balance Account will continue to be credited with interest pursuant to Section 6.04;

(b) The Member will continue to accrue Continuous Service, Years of Eligibility Service and Years of Vesting Service; and

(c) The Member will not continue to accrue Years of Benefit Service, and no further pay credits will be allocated to the Member's Cash Balance Account pursuant to Section 6.02 or 6.03.

ARTICLE IV
FUNDING OF BENEFITS

Section 4.01. Funding Policy and Method. Each Plan Year, the Employer will pay to the Trust an amount sufficient to fund the benefits provided under the Plan pursuant to the requirements of Code section 412 and ERISA.

Section 4.02. Actuarial Valuations. The Employer or the Committee will designate an actuary for the Plan. The actuary will periodically (at least annually) perform an actuarial valuation of the Plan and Trust and will certify to the Employer or the Committee in writing the results of each valuation. Each actuarial valuation will include a valuation of the assets and liabilities of the Plan. The actuary will apply all gains and forfeitures arising in the operation of the Plan to reduce the Employer's contributions, all in accordance with the actuarial methods, factors, and assumptions then employed by the actuary in accordance with the Plan and ERISA. The actuarial valuation used for computing Plan costs for minimum funding for a year will be the same valuation used for the purpose of the top-heavy determination under Section 13.02 for the year.

Section 4.03. Funding Standard Account. The Committee will cause the actuary to establish and maintain a funding standard account for the Plan for purposes of measuring and determining compliance with the minimum funding standards imposed by ERISA.

Section 4.04. Nondiversion and Exclusive Benefit. Except as expressly provided in this Section, the Trust Assets will not revert to the Employer and will be devoted exclusively to the payment of benefits to Members, Beneficiaries, and other persons and for payment of

reasonable administration expenses as provided in the Plan and Trust Agreement. The Trustee will, however, return to the Employer a contribution to the Plan under the following circumstances:

(a) If the Plan receives an adverse determination letter from the Internal Revenue Service regarding initial qualification of the Plan under Code section 401(a), and an Employer requests in writing that its prior contributions be returned, the Trustee will comply with the Employer's request; provided, however, that no contribution will be returned to an Employer pursuant to this Subsection more than one year after receipt of the determination and, provided further, that the Employer filed a complete application for determination within the time prescribed by law for filing its return for the taxable year in which the Plan was adopted or any later date prescribed by the Secretary.

(b) If any contribution is made to the Plan by mistake of fact and the Employer requests in writing that the contribution be returned, the Trustee will comply with the Employer's request; provided, however, that no contribution may be returned to the Employer pursuant to this Subsection more than one year after the date on which the contribution is made.

(c) To the extent that the deduction for a contribution made by the Employer is disallowed, the contribution will be returned to the Employer (to the extent disallowed) within one year after the disallowance of the deduction, if the Employer so requests in writing.

(d) To the extent provided for under the terms of the Plan and applicable law, as certified to the Trustee in writing by the Company, upon termination of the Plan and after provision for the satisfaction of all liabilities of the Plan to persons entitled to benefits under the Plan, any amounts remaining in the Trust because of erroneous actuarial computation will revert to and be returned to the Employer.

Section 4.05. Limitations Based on Funded Status of the Plan. Notwithstanding any provision of the Plan to the contrary, except to the extent the exception under Code section 436(d)(4) applies, the following provisions will apply:

(a) If the Plan's adjusted funding target attainment percentage for a Plan Year is less than 60 percent, benefit accruals will cease during the period benefit accruals are restricted under the provisions of Code section 436(e).

(b) If the Plan's adjusted funding target attainment percentage for a Plan Year falls below the threshold described at Code section 436(d)(1) or (3), payment of any prohibited payment during the period specified in, and to the extent necessary to comply with the provisions of, Code section 436(d) will cease.

(c) A prohibited payment will not be paid during any period the Employer is a debtor in a case under Title 11 of the United States Code, or similar federal or state law, to the extent necessary to comply with the provisions of Code section 436(d)(2).

(d) An amendment that has the effect of increasing liabilities of the Plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable will not become effective during the period the amendment would violate the provisions of Code section 436(c).

(e) If an optional form of benefit that is otherwise available under the terms of the Plan is not available because of the application of Code section 436(d)(1) or (2), the Member or Beneficiary, as applicable, will be eligible to elect another form of benefit available under the Plan or to defer payment to a later date (to the extent permitted under applicable qualification requirements).

(f) If an optional form of benefit that is otherwise available under the terms of the Plan is not available because the Plan's adjusted funding target percentage for a Plan Year is 60 percent or greater but less than 80 percent, the Member or Beneficiary, as applicable, may (to the extent permitted under applicable qualification requirements) elect to defer commencement of the entire benefit until after the restrictions on prohibited payments lapse and then receive it in any optional form of payment available under the Plan, or commence payment of the entire benefit in any optional form otherwise available under the Plan. The election will be subject to any other applicable qualification requirements, will be treated as a new Annuity Starting Date, and will be made in accordance with all Plan rules regarding elections of forms of benefit.

(g) If a Member or Beneficiary is entitled to an unpredictable contingent event benefit with respect to any event occurring during any Plan Year, the unpredictable contingent event benefit will not be provided to the Member or Beneficiary if the Plan's adjusted funding target attainment percentage for the Plan Year is less than 60 percent or would be less than 60 percent taking into account the occurrence; provided, however, that the unpredictable contingent event benefit will become payable if and when the Plan meets the exemption under Code section 436(b)(2).

For purposes of this Section, the terms "adjusted funding target attainment percentage," "prohibited payment," "unpredictable contingent event benefit," "unrestricted portion of the benefit," and "restricted portion of the benefit" will have the meanings given under Code section 436 and any applicable Internal Revenue Service guidance.

If the provisions of this Section 4.05 cease to be required by law as a result of subsequent legislation or otherwise, this Section will be ineffective without the necessity of further amendments to the Plan.

ARTICLE V
VESTING

Section 5.01. Nonforfeitability. For all purposes of the Plan, a "vested" interest is an interest that is nonforfeitable in the sense that it constitutes a claim that is unconditional and legally enforceable against the Plan.

Section 5.02. Vesting of Member's Benefit. A Member's interest in his Plan benefit will be forfeitable, except as that interest becomes vested under this Section.

(a) A Member's interest in his Plan benefit will be 100% vested upon the occurrence of any of the following events:

(1) his Normal Retirement Date;

(2) his death or Disability while an Employee;

(3) partial termination of the Plan (within the meaning of the Code), to the extent funded;

(4) termination of the Plan, to the extent funded; or

(5) completion of three Years of Vesting Service.

(b) Notwithstanding any other provision of this Section, for the first Plan Year in which the Plan is a Top-Heavy Plan and for all subsequent Plan Years in which the Plan is a Top-Heavy Plan, the interest of a Member in his Plan benefit will become 100% vested upon the Member's completion of three Years of Vesting Service. If the Plan ceases to be a Top-Heavy Plan, the following will apply:

(1) A Member with at least three Years of Vesting Service as of the beginning of the first Plan Year that succeeds a Top-Heavy Plan Year will remain vested in his Plan benefit in accordance with the Top-Heavy Plan vesting schedule;

(2) Any other Member will, as of the beginning of the first Plan Year that succeeds a Top-Heavy Plan Year, again be subject to the provisions of Subsection (a) with respect to all of his interest in the Plan.

Section 5.03. Deemed Distributions. If upon a Separation from Service, a Member is 0% vested in his Plan benefit, the vested portion of his Plan benefit will be deemed distributed to him as of his Separation from Service. No amount or benefit forfeited or lost in any manner under the provisions of the Plan will be applied to increase the benefits of any Employee, Member, or other person entitled to benefits under the Plan.

ARTICLE VI
MEMBER BENEFITS

Section 6.01. Cash Balance Accounts. The Committee will maintain a separate Cash Balance Account for each Member. A Cash Balance Account is a bookkeeping account used to determine the amount of a Member's benefit payable under the Plan. A Member will have neither an actual account nor any interest in particular Trust Assets.

Section 6.02. Standard Pay Credits. Subject to Sections 6.03 and 6.05, pay credits will be credited to a Member's Cash Balance Account as follows:

(a) Until he Separates from Service, a Member's Cash Balance Account will be credited each Plan Year with a pay credit equal to a points-related percentage of the Member's Compensation for that Plan Year. A Member's points for a Plan Year will be equal to the sum of the Member's age and Years of Benefit Service as of the last day of the Plan Year. For this purpose, the Plan will count only whole years of age and Years of Benefit Service and will disregard periods of less than a whole year. Pay credits will be allocated as of the last day of the Plan Year based on the following schedule:

	Standard Percentage of Compensation	
Points	Plan Years from 6/1/1998-12/31/2001	Plan Years from 1/1/2002-3/31/06
1-29	2.0%	2.5%
30-34	2.5%	2.5%
35-39	3.0%	3.0%
40-44	3.5%	3.5%
45-49	4.0%	4.0%
50-54	4.5%	4.5%
55-59	5.5%	5.5%
60-64	6.5%	6.5%
65-69	7.5%	7.5%
70-74	9.0%	9.0%
75-79	10.5%	10.5%
80+	12.0%	12.0%

(b) In the event a Member Separates from Service before the last day of a Plan Year, he will not receive an allocation for that Plan Year if he has completed less than 1,000 Hours of Service during that Plan Year. If a Member completes 1,000 or more Hours of Service during that Plan Year, he will receive a pay credit for that Plan Year based on his age and Years of Benefit Service as of the date he Separates from Service and the Compensation he earned during the Plan Year up to the date of his Separation from Service.

Section 6.03. Transition Member Pay Credits. Subject to Section 6.05, if a Member is a Transition Member, his Cash Balance Account will not be credited under Section 6.02 but his Cash Balance Account will instead be credited with pay credits under this Section as follows:

(a) A Transition Member's Cash Balance Account will be credited each Plan Year with a pay credit equal to a points-related percentage of his Compensation for that Plan Year. A Transition Member's points will be determined in accordance with Section 6.02. A Transition Member's pay credits will be allocated as of the last day of the Plan Year based on the following schedule:

	Transition Percentage of Compensation	
Points	Plan Years from 6/1/1998-12/31/2001	Plan Years from 1/1/2002-3/31/06
1-29	2.0%	8.0%
30-34	2.5%	8.0%
35-39	3.0%	8.0%
40-44	3.5%	8.0%
45-49	4.0%	8.0%
50-54	4.5%	8.0%
55-59	5.5%	8.0%
60-64	7.0%	8.0%
65-69	8.5%	8.5%
70-74	10.5%	10.5%
75-79	13.0%	13.0%
80+	16.0%	16.0%

(b) In the event a Transition Member Separates from Service before the last day of a Plan Year, he will not receive an allocation for that Plan Year if he has completed less than 1,000 Hours of Service during that Plan Year. If a Transition Member completes 1,000 or more Hours of Service during that Plan Year, he will receive a pay credit for the Plan Year based on his age and Years of Benefit Service as of the date he Separates from Service and the Compensation he earned during the Plan Year up to the date of his Separation from Service.

Section 6.04. Interest Credits.

(a) Until his Annuity Starting Date, for the balance of the Member's Cash Balance Account that is attributable to amounts credited as of December 31, 2001 ("Pre-2002 Balance"), a Member's Cash Balance Account will be credited each Plan Year with an interest credit of 5% of the Member's Pre-2002 balance as of the last day of the prior Plan Year. Interest credits under this Subsection will be credited as of the last day of the Plan Year, except that if a Member's Annuity Starting Date is other than the last day of a Plan Year, the Member's interest credit for the Plan Year in which his Annuity Starting Date occurs (1) will be credited to his Cash Balance Account on or before his Annuity Starting Date and (2) will be equal to 5%, reduced as described in the following

sentence, of the Member's Pre-2002 Balance as of the last day of the prior Plan Year. A Member's reduced interest credit will be equal to 5% multiplied by a fraction, the numerator of which is the number of calendar months in the Plan Year up to but not including the month in which his Annuity Starting Date occurs and the denominator of which is 12.

(b) Until his Annuity Starting Date, for that portion of a Member's Cash Balance Account that is attributable to amounts credited after December 31, 2001 ("Post-2002 Balance"), a Member's Cash Balance Account will be credited each Plan Year with an interest credit equal to the average of the 30-year U.S. Treasury rates, as of March 31, June 30, and September 30 of the preceding Plan Year, rounded to the nearest one-tenth (1/10) of one percent (1%), multiplied by the Member's Post-2002 Balance as of the last day of the prior Plan Year. If no 30-year U.S. Treasury rate is issued for an applicable date, the Plan will substitute the applicable interest rate specified by Code section 417(e)(3) or its interpretive regulations. The minimum rate of interest credit under this Subsection will be 4% and the maximum rate will be 12%. Interest credits under this Subsection will be credited as of the last day of the Plan Year, except that if a Member's Annuity Starting Date is other than the last day of the Plan Year, the Member's interest credit for the Plan Year in which his Annuity Starting Date occurs (1) will be credited to his Cash Balance Account on or before his Annuity Starting Date and (2) will be equal to the interest credit determined in the first sentence of this Subsection for the Plan Year in which the Member's Annuity Starting Date occurs, reduced as described in the following sentence, multiplied by the Member's Post-2002 Balance as of the last day of the prior Plan Year. A Member's reduced interest credit will be equal to the interest rate determined in the first sentence of this Subsection for the Plan Year in which the Member's Annuity Starting Date occurs, multiplied by a fraction, the numerator of which is the number of calendar months in the Plan Year up to but not including the month in which his Annuity Starting Date occurs and the denominator of which is 12.

Section 6.05. Frozen Benefits. Notwithstanding any other provision of the Plan to the contrary, effective March 31, 2006, the benefits of each Member are frozen. No further pay credits will be allocated to a Member's Cash Balance Account after the Freeze Date. A Member who is employed by the Employer on the Freeze Date, or who has completed at least 250 Hours of Service during the Final Quarter, will be credited with a pay credit equal to a points-related percentage of the Member's Compensation for the Final Quarter. A Member's points for the Final Quarter will be equal to the sum of the Member's age and Years of Benefit Service as of March 31, 2006. For this purpose, the Plan will count only whole years of age and Years of Benefit Service, except that a Member who is employed by the Employer on the Freeze Date or has completed at least 250 Hours of Service during the Final Quarter will be credited with a whole Year of Benefit Service for the Final Quarter.

ARTICLE VII
PAYMENT OF BENEFITS

Section 7.01. Normal Retirement Benefits. Subject to Section 7.05, if a Member Separates from Service on or after his Normal Retirement Date, a benefit equal to the value of his Cash Balance Account will be paid as follows:

(a) If the value of the balance of the Member's Cash Balance Account is $1,000 or less on the date his benefits are payable, which will be as soon as administratively feasible after his Separation from Service, his benefit will be paid to him in a lump sum cash payment. If the value of the balance of the Member's Cash Balance Account exceeds $1,000 but does not exceed $5,000 on the date his benefits are payable, his benefit will be paid to him in a lump sum cash payment as of the first day of any month occurring after he Separates from Service and on or before his Required Beginning Date, as he elects. If the value of the balance of the Member's Cash Balance Account exceeds $1,000 but does not exceed $5,000 on the date his benefits are payable, but later exceeds $5,000, his benefits will be paid to him in accordance with Subsection (b) as though he deferred payment to a time after his benefits were first payable.

(b) If the value of the Member's Cash Balance Account is greater than $5,000 on the date his benefits would be payable, which will be as soon as administratively feasible after his Separation from Service, his benefit will be paid as follows:

(1) If the Member is married on his Annuity Starting Date, a benefit equal to the value of his Cash Balance Account will be paid to him in the form of a Qualified Joint and Survivor Annuity beginning as soon as administratively feasible after his Separation from Service, unless he waives this form of payment and elects either a Qualified Joint and 75% Survivor Annuity or a lump sum cash payment in accordance with Paragraphs (3) and (4). A Member may elect to defer payment of his benefit to the first day of any month occurring after the Member's Separation from Service and on or before the Member's Required Beginning Date.

(2) If the Member is not married on his Annuity Starting Date, a benefit equal to the value of his Cash Balance Account will be paid to him in the form of a Life Annuity beginning as soon as administratively feasible after his Separation from Service, unless he waives this form of benefit and elects a lump sum cash payment in accordance with Paragraphs (3) and (4). A Member may elect to defer payment of his benefit to the first day of any month occurring after the Member's Separation from Service and on or before the Member's Required Beginning Date.

(3) A Member may elect to waive the Qualified Joint and Survivor Annuity or the Life Annuity, whichever is applicable, and elect to receive the value of his Cash Balance Account in a single lump sum cash payment or, if he is married, in the form of a Qualified Joint and 75% Survivor Annuity, paid as of the first day of any month occurring after the Member Separates from Service and on or before the Member's Required Beginning Date.

(4) A Member's election of a Qualified Joint and 75% Survivor Annuity or a lump sum cash payment in lieu of a Qualified Joint and Survivor Annuity or Life Annuity must be made in writing, be received by the Committee during the Applicable Election Period and, if applicable, state the specific nonspouse Beneficiary (including any class of Beneficiaries or contingent Beneficiaries) who is to receive the lump sum cash payment in the event of the Member's death, and the particular optional form of benefit. If the Member is married, his Spouse must consent in writing to his election. The Spouse's consent must be irrevocable, must be made and received by the Committee during the Applicable Election Period, must acknowledge the effect of the consent and election, and must be witnessed by a notary public or Plan representative. If the Member establishes to the satisfaction of the Committee that the Spouse's consent cannot be obtained because there is no Spouse or the Spouse cannot be located, the Spouse's consent will be deemed to have been given. If a Member is legally separated from his Spouse or has been abandoned by his Spouse within the meaning of local law, and the Member has a court order to that effect, the Spouse's consent will not be required unless a Qualified Domestic Relations Order provides otherwise. Any consent will be valid only with respect to the Spouse who signs the consent or, in the event of a deemed consent, the designated Spouse. If a Member's Spouse is legally incompetent to give consent, the Spouse's legal guardian (even if the guardian is the Member) may give consent. A Member may revoke a prior election at any time, and any number of times, prior to the commencement of his benefits.

(c) When a Member continues in employment with the Employer beyond his Normal Retirement Date, benefits will not begin during that continued period of employment unless required under Section 7.09. The Member will be sent a notification described in § 2530.203-3(b)(4) of the Department of Labor regulations, provided that the suspension of benefits notice is limited to periods of service within the context of § 2530.203-3(c) of the Department of Labor regulations.

(d) In 2003, after reaching her Normal Retirement Date, the Member Nancy Lohr received a single lump sum cash payment of the present value of her Cash Balance Account. This Subsection (d) provides for and authorizes that distribution to her.

Section 7.02. Disability Retirement Benefits. Subject to Section 7.05, if a Member becomes disabled while he is employed by the Employer, he will be entitled to receive a benefit equal to the value of his Cash Balance Account on any date that is at least 12 months after his Disability Date, provided that he is still disabled on that date. The value of the disabled Member's Cash Balance Account will be paid as follows:

(a) If the value of the balance of the Member's Cash Balance Account on the date that is the first anniversary of his Disability Date is $1,000 or less, his benefit will be paid to him as soon as administratively feasible after the first anniversary of his Disability Date. If the value of the balance of the Member's Cash Balance Account on the date that is the first anniversary of his Disability Date exceeds $1,000 but does not exceed $5,000, his benefit will be paid to him as of the first day of any month occurring after the first anniversary of his Disability Date and on or before his Required Beginning Date, as he elects. If the value of the balance of the Member's Cash Balance Account exceeds $1,000 but does not exceed $5,000 on the date that is the first anniversary of his Disability Date, but later exceeds $5,000, his benefits will be paid to him in accordance with Subsection (b) as though he deferred payment to a time after his benefits were first payable.

(b) If the value of the balance of the Member's Cash Balance Account on the date that is the first anniversary of his Disability Date, together with the amount of any prior distributions from the Plan, is greater than $5,000, the value of his Cash Balance Account will be paid as follows:

(1) If the Member is married on his Annuity Starting Date, a benefit equal to the value of his Cash Balance Account will be paid to him in the form of a Qualified Joint and Survivor Annuity beginning as soon as administratively feasible after the first anniversary of his Disability Date, unless he waives this form of payment and elects either a Qualified Joint and 75% Survivor Annuity or a lump sum cash payment in accordance with Paragraph (3). A Member may elect to defer payment of his benefit to the first day of any month occurring after the first anniversary of his Disability Date and on or before the Member's Required Beginning Date.

(2) If the Member is not married on his Annuity Starting Date, a benefit equal to the value of his Cash Balance Account will be paid to him in the form of a Life Annuity beginning as soon as administratively feasible after the first anniversary of his Disability Date, unless he waives this form of payment and elects a lump sum cash payment in accordance with Paragraph (3). A Member may elect to defer payment of his benefit to the first day of any month occurring after the first anniversary of his Disability Date and on or before the Member's Required Beginning Date.

(3) A Member may elect to waive the Qualified Joint and Survivor Annuity or the Life Annuity, whichever is applicable, and elect to receive his benefit in a single lump sum cash payment or, if he is married, in the form of a Qualified Joint and 75% Survivor Annuity, paid as of the first day of any month occurring after the first anniversary of the Member's Disability Date and on or before the Member's Required Beginning Date. A Member's election of an optional form of benefit must comply with the requirements of Section 7.01(b)(4).

Section 7.03. Other Termination Benefits. Subject to Section 7.05, if a Member Separates from Service for any reason other than retirement, disability, or death, and his benefit has become vested in accordance with Subsection 5.02(b), his benefit is to be paid as follows:

(a) If the value of the balance of the Member's Cash Balance Account is $1,000 or less on the date his benefits are payable, which is as soon as administratively feasible after his Separation from Service occurs, a benefit equal to the value of his Cash Balance Account will be paid to him in a single lump sum cash payment as soon as administratively feasible after the last day of the Plan Year in which his Separation from Service occurs. If the value of the balance of the Member's Cash Balance Account exceeds $1,000 but does not exceed $5,000 on the date his benefits are payable, a benefit equal to the value of his Cash Balance Account will be paid to him in a single lump sum cash payment on the first day of any month occurring after he Separates from Service and on or before his Required Beginning Date, as he elects. If the value of the balance of the Member's Cash Balance Account exceeds $1,000 but does not exceed $5,000 on the date his benefits are payable, but later exceeds $5,000, his benefits will be paid to him in accordance with Subsection (b) as though he deferred payment to a time after his benefits were first payable.

(b) If the value of the balance of the Member's Cash Balance Account exceeds $5,000 on the date his benefits are payable, which is as soon as administratively feasible after his Separation from Service occurs, then, subject to Section 7.16, a benefit equal to the value of his Cash Balance Account will be paid as follows:

(1) If the Member is married on his Annuity Starting Date, his benefit will be paid to him in the form of a Qualified Joint and Survivor Annuity beginning on the first day of the month coinciding with or next following the date on which he reaches age 62, unless he waives this form of benefit and elects either a Qualified Joint and 75% Survivor Annuity or a lump sum cash payment in accordance with Paragraph 3. A Member may elect to have payment of his benefit begin as of the first day of any month occurring on or after the Member reaches age 55, and on or before the Member's Required Beginning Date.

(2) If the Member is not married on his Annuity Starting Date, a benefit equal to the value of his Cash Balance Account will be paid to him in the form of a Life Annuity beginning on the first day of the month coinciding with or next following the date on which he reaches age 62, unless he waives this form of payment and elects a lump sum cash payment. A Member may elect to have payment of his benefit begin as of the first day of any month occurring on or after the Member reaches age 55, and on or before the Member's Required Beginning Date.

(3) A Member may waive the Qualified Joint and Survivor Annuity or the Life Annuity, whichever is applicable, and elect to receive his benefit in a single lump sum cash payment or, if he is married, in the form of a Qualified Joint and 75% Survivor Annuity, paid as of the last day of any month occurring on or after the Member reaches age 55 and on or before the Member's Required Beginning Date. A Member's election of an optional form of benefit must comply with the requirements of Section 7.01(b)(4).

Section 7.04. Death Benefits. Subject to Section 7.05, if a Member dies before his Annuity Starting Date, his benefit will be paid as follows:

(a) If the value of the balance of the Member's Cash Balance Account on the date of his death, together with the amount of any prior distributions from the Plan, is $1,000 or less, a benefit equal to the value of the Member's Cash Balance Account will be paid to his Beneficiary in a single lump sum cash payment as soon as administratively feasible after his death. If the value of the balance of the Member's Cash Balance Account on the date of his death, together with the amount of any prior distributions from the Plan, exceeds $1,000 but does not exceed $5,000, a benefit equal to the value of his Cash Balance Account will be paid to his Beneficiary in a single lump sum cash payment as of the first day of any month the Beneficiary designates, if his Beneficiary is the Member's Spouse, or as soon as administratively feasible after his death, if his Beneficiary is not his Spouse. If the value of the balance of the Member's Cash Balance Account on the date of his death, together with the amount of any prior distributions from the Plan, exceeds $1,000 but does not exceed $5,000, but exceeds $5,000 on the date as of which his Spouse elects to receive it, the Spouse's benefit will be paid to the Spouse in accordance with Subsection (b) as though the Member's death occurred on the date as of which the Spouse elected to receive the benefit.

(b) If the value of the balance of the Member's Cash Balance Account on his death, together with the amount of any prior distributions from the Plan, is greater than $5,000, a death benefit will be paid as follows:

(1) If the Member is married on his death, a benefit equal to the value of his Cash Balance Account will be paid to his Spouse in the form of a Qualified Preretirement Survivor Annuity beginning as soon as administratively feasible after the date on which the Member would have reached age 62 (or the date of the Member's death if he died after reaching age 62), unless (A) the Member waives this form of benefit and elects an optional form of benefit in accordance with Paragraph (3), (B) the Member does not waive this form of benefit but, after the Member's death, the Spouse elects to receive, in lieu of this form of benefit, a single lump sum cash payment as of the first day of any month the Spouse designates (subject to Section 7.09), or (C) the Member does not waive this form of benefit but, after the Member's death, the Spouse elects to begin payment of the Qualified Preretirement Survivor Annuity as soon as administratively feasible after the Member's death. If the Member dies

after attaining the earliest retirement age under the Plan, the Spouse's benefit may not be less than the benefit that would be payable to the Spouse if the Member had retired with an immediate qualified joint and survivor annuity on the day before the Member's death. If the Member dies on or before the earliest retirement age, the benefit may not be less than the benefit that would be payable to the Spouse if the Member had separated from service at the earlier of actual separation or death, survived until the earliest retirement age, retired at that time with an immediate qualified joint and survivor annuity, and died the day after.

(2) If the Member is not married on his death, a benefit equal to the value of the balance of his Cash Balance Account will be paid to his Beneficiary in a single lump sum cash payment as soon as administratively feasible after his death.

(3) A Member may waive the Qualified Preretirement Survivor Annuity and elect to have any death benefit paid to his Beneficiary in a single lump sum cash payment as soon as administratively feasible after his death. A Member's election of the lump sum benefit must be made in writing, be received by the Committee during the Applicable Election Period and, if applicable, state the specific nonspouse Beneficiary (including any class of Beneficiaries or contingent Beneficiaries), and his Spouse must consent in writing to his election. The Spouse's consent must be irrevocable, must be received by the Committee during the Application Election Period, must acknowledge the effect of the consent and the election, and must be witnessed by a Plan representative or notary public. If the Member establishes to the satisfaction of the Committee that the Spouse's consent cannot be obtained because there is no Spouse or the Spouse cannot be located, the Spouse's consent will be deemed to have been given. If a Member is legally separated from his Spouse or has been abandoned by his Spouse within the meaning of local law and the Member has a court order to that effect, the Spouse's consent will not be required unless a Qualified Domestic Relations Order provides otherwise. Any consent will be valid only with respect to the Spouse who signs the consent, or in the event of a deemed consent, the designated Spouse. If a Member's Spouse is legally incompetent to give consent, the Spouse's legal guardian (even if the guardian is the Member) may give consent. A Member may revoke a prior election at any time, and any number of times, prior to his death.

Section 7.05. Equivalent Benefits and Present Value. A benefit paid pursuant to Sections 7.01, 7.02, 7.03, or 7.04 in any form other than a lump sum will be the Actuarial Equivalent of the balance of the Member's Cash Balance Account as of the applicable Annuity Starting Date.

Section 7.06. Written Explanation of Benefits. The Committee will provide the following written explanations:

(a) The Committee will provide to each Member within the period that begins 90 days prior to, and ends 30 days prior to, the Annuity Starting Date a written explanation of (1) the terms and conditions of a Qualified Joint and Survivor Annuity or Life Annuity, (2) the Member's right to make and the effect of a waiver of a Qualified Joint and Survivor Annuity or Life Annuity, including a married Member's right to select a Qualified Joint and 75% Survivor Annuity, (3) the consequences of selecting a benefit form that does not defer receipt of the benefit, (4) the rights of a Member's Spouse with respect to the election of optional forms of benefit, and (5) the right to make and the effect of a revocation of a previous waiver of the Qualified Joint and Survivor Annuity or Life Annuity. A Member may waive any requirement that the Applicable Election Period extend at least 30 days after the Committee provides the Member with the written explanation if the distribution commences more than seven days after the written explanation is provided. If the Member is married, the Member's Spouse must consent to the waiver in writing before a notary public or a Plan representative.

(b) The Committee will provide to each Member a written explanation of the death benefits under the Plan in such terms and in such manner as would be comparable to the explanation provided for meeting the requirements of Subsection (a) applicable to a Qualified Joint and Survivor Annuity or Life Annuity. The time for providing the written explanation of the death benefits will be governed by the following provisions:

(1) If an Employee becomes a Member before he reaches age 35, the Committee will provide the written explanation to the Member within the period beginning on the first day of the Plan Year in which the Member reaches age 32 and ending on the first day of the Plan Year in which the Member reaches age 35.

(2) If a Member becomes a Member after reaching age 35, the Committee will provide the written explanation to each Member within a reasonable period after he becomes a Member.

(3) If a Member Separates from Service before reaching age 35, the Committee will provide the written explanation to the Member within one year after the Separation from Service. If the Member is later reemployed, the written explanation will again be provided to him after his reemployment pursuant to the provisions of Paragraphs (1) and (2).

Section 7.07. Purchase of Annuity Contracts. If a Member's benefits are payable in the form of an annuity, the Committee may cause the Trustee to apply an amount equal to the present value of the Member's Cash Balance Account for the purchase of an annuity contract from an appropriate insurance company.

Section 7.08. Top-Heavy Benefits. If the Plan is a Top-Heavy Plan for a Plan Year, the minimum benefit requirements of Code section 416(c) will be satisfied by the Employer as follows:

(a) A Non-Key Employee who is a Member and has completed at least 1,000 Hours of Service during the Plan Year will accrue a minimum benefit for the Plan Year that, when expressed as a single life annuity beginning on the Employee's Normal Retirement Date, must equal at all times at least the product of (1) the Employee's average Compensation for the five consecutive Plan Years when the Employee had the highest aggregate Compensation and (2) the lesser of (A) 2% per each Plan Year or (B) 20%. A Non-Key Employee will not fail to accrue a minimum benefit for a Plan Year merely because he was not employed on a specified date of that Plan Year or because his compensation for that Plan Year is less than a stated amount.

(b) A Non-Key Employee who is entitled to accrue a minimum benefit for a Top-Heavy Plan Year pursuant to Subsection (a) and who is otherwise entitled to receive a minimum contribution for the same Plan Year under a top-heavy defined contribution plan maintained by the Employer will be entitled to accrue the minimum benefit under this Plan in lieu of the minimum contribution under the defined contribution plan.

(c) For purposes of satisfying the minimum benefit requirements of Code section 416(c)(1) and the Plan, in determining years of service with the Employer, any service with the Employer will be disregarded to the extent that such service occurs during a Plan Year when the Plan benefits (within the meaning of Code section 410(b)) no Key Employee or former Key Employee.

Section 7.09. Other Distribution Rules Imposed by Federal Law. This Section has been included in the Plan to comply with the limitations imposed by Code sections 401(a)(9) and 401(a)(14), and it will not be construed as providing for a form of benefit not otherwise provided for under the Plan. Notwithstanding any provision of this Plan to the contrary, any distribution under the Plan will be made in accordance with regulations under Code section 401(a)(9) and will comply with the rules described at Article XV. Further, unless a Member elects otherwise, the payment of his benefits under the Plan must begin not later than the 60th day after the end of the Plan Year in which occurs the latest of (1) the Member's 65th birthday, (2) the 10th anniversary of the Plan Year in which the Member began participation in the Plan, or (3) termination of the Member's employment with the Employer.

Section 7.10. Effect of Government Regulation on Payment of Benefits. If any regulation of the federal government or a federal agency prohibits or prevents the payment or distribution of benefits in the manner provided in the Plan, the Committee will conform to the regulation without amendment of the Plan.

Section 7.11 . Inalienability of Benefits. Except as provided in this Section, no Plan benefit will be subject in any manner to anticipation, alienation, sale, transfer, assignment, pledge, encumbrance, or charge, whether voluntary or involuntary, and any attempt to anticipate, alienate, sell, transfer, assign, pledge, encumber, or charge a Plan benefit will be void. The prohibition set out in the preceding sentence will not apply to the creation, assignment, or recognition of a right to any benefit payable with respect to a Member pursuant to a Qualified Domestic Relations Order.

Section 7.12. Payments for Benefit of Incompetents. If any benefit is payable to a minor or other person legally incompetent and the Committee is aware of that person's status, the Committee will direct that payments be made to the legal guardian of that person or to such other person or organization as a court of competent jurisdiction may direct.

Section 7.13. Qualified Domestic Relations Orders. If a Qualified Domestic Relations Order provides for the payment of all or a portion of the value of a Member's benefit to an alternate payee, distribution to the alternate payee may be made at the time specified in the Qualified Domestic Relations Order, provided the order does not require distribution prior to the date the Member reaches the "earliest retirement age," as defined in Code section 414(p). Notwithstanding the preceding sentence, if the present value of the alternate payee's interest in the Plan is less than $5,000, a Qualified Domestic Relations Order may provide for the immediate payment of all or a portion of the value of the Member's benefit to the alternate payee, and distribution will be made pursuant to the order as soon as administratively feasible following the Committee's determination that the order is a Qualified Domestic Relations Order.

Section 7.14. Direct Rollovers.

(a) Notwithstanding any provision of the Plan to the contrary that would otherwise limit a Distributee's election under this Section, a Distributee may elect, at the time and in the manner prescribed by the Committee, to have any portion of an Eligible Rollover Distribution paid directly to an Eligible Retirement Plan specified by the Distributee in a Direct Rollover.

(b) A non-Spouse Beneficiary who is a designated beneficiary (as defined in Code section 401(a)(9)(E)) of a Member may elect to have any portion of a distribution payable to him or, to the extent provided in rules prescribed by the Secretary, payable to a trust maintained for his benefit, transferred in a direct trustee-to-trustee transfer to an individual retirement plan described in Code section 402(c)(8)(B)(i) or (ii) established for the purpose of receiving the distribution on behalf of the Beneficiary.

Section 7.15. Beneficiaries. A Member's Beneficiary will be determined pursuant to this Section.

(a) Except as provided pursuant to a Qualified Joint and Survivor Annuity or a Qualified Preretirement Survivor Annuity, the Member's Beneficiary will be the person or persons, including a trustee, designated in writing by a Member pursuant to practices of, or rules prescribed by, the Committee, as the recipient of a benefit payable under the Plan following the Member's death. To be effective, a Beneficiary designation must be filed with the Committee during the Member's life.

(b) If no person has been designated as the Beneficiary of a Member, or if no person so designated survives the Member, then the Beneficiary will be determined as follows:

(1) If the Member is survived by a Spouse, the Spouse will be the Member's Beneficiary.

(2) If the Member is not survived by a Spouse, the Member's estate will be the Member's Beneficiary.

If any amount becomes payable under the Plan to a Beneficiary who survives the Member but dies before receiving the benefit due him, and if the Member has not named a contingent Beneficiary who survives the Member, that amount will be paid in a lump sum as soon as administratively feasible following the Beneficiary's death to the Beneficiary's estate.

Section 7.16. Annual Determination of Cash Balance Accounts. For purposes of Sections 7.01, 7.02, 7.03 and 7.04, the determination of whether the present value of a Member's Cash Balance Account is $1,000 or less will be made at the time the benefit is first payable and again once each Plan Year after the benefit is first payable. If at any time a determination is made that the present value of a Member's Cash Balance Account is $1,000 or less, the benefit will be paid to the Member or his or her Beneficiary in a lump sum cash payment as soon as administratively feasible after the determination.

Section 7.17. Preservation of Capital. As of a Member's Annuity Starting Date, the Member's benefit under the Plan may be no less than the benefit determined as of that date based on the sum of the "hypothetical contributions" credited under the Plan for the Member. For this purpose, the term "hypothetical contributions" has the meaning ascribed to it at proposed Treasury regulation § 1.411(b)(5)-1(d)(2)(ii)(B) or any regulation that replaces it.

ARTICLE VIII
ADMINISTRATION

Section 8.01. Administrator. The Plan Committee will be the administrator of the Plan within the meaning of ERISA section 3(16)(A). The Committee will consist of the number of Members, not fewer than three, that is specified from time to time by the Board of Directors or its designee. A person must be an officer or employee of ESI to be a member of the Committee. All members of the Committee will serve without compensation.

Section 8.02. Removal and Replacement of Committee Members. The members of the Committee will hold membership at the pleasure of the Board of Directors or its designee and may be removed by the Board of Directors or its designee with or without cause. Any vacancy among the members will be filled by the Board of Directors or its designee.

Section 8.03. Resignation. A member of the Committee may resign by delivering his written resignation to any other member of the Committee or to the Board of Directors. A resignation will become effective on the date specified in the instrument of resignation.

Section 8.04. Chairman, Services, and Counsel. The members of the Committee will elect one of their members as Chairman and will elect a Secretary, who may be, but need not be, one of the members of the Committee. The Employer will provide the Committee, at the Employer's expense, with such clerical, accounting, actuarial, and other services as the Committee may reasonably require in carrying out its responsibilities. The Committee may employ counsel, who may be, but need not be, counsel to the Employer.

Section 8.05. Meetings. The Committee will hold meetings upon such notice, at such places, and at such times as the Committee may from time to time determine.

Section 8.06. Quorum. A majority of the members of the Committee at the time holding office will constitute a quorum for the transaction of business. All resolutions and other actions taken by the Committee at any meeting will be by the vote of the majority of the members of the Committee present at the meeting.

Section 8.07. Action Without Meeting. Any decision, order, direction, or other action, including orders and directions to the Trustee, made in writing signed by a majority of the members of the Committee at the time holding office will constitute valid and effective action of the Committee, whether or not the matter to which that decision, order, direction, or other action pertains has already been acted upon at a duly called and held meeting of the Committee.

Section 8.08. Notice to Trustee of Changes in Membership. The Trustee will not be charged with notice of any change in the membership of the Committee unless and until it has received a certified copy of the resolution or vote of the Board of Directors effecting the change.

Section 8.09. Correction of Defects. The Committee may correct any defect or supply any omission or reconcile any error or inconsistency in its previous proceedings, decisions, orders, directions, or other actions in such manner and to such extent as it will deem advisable to carry out the purposes of the Plan.

Section 8.10. Reliance Upon Legal Counsel. The members of the Committee, and the Employer and its officers and directors, will be entitled to rely upon all opinions given by legal counsel selected by the Committee.

Section 8.11. Expenses. In the performance of its duties, the Committee is authorized to incur reasonable expenses, including counsel fees, which will, to the extent permitted by ERISA, be chargeable against the funds of the Trust if the expenses are not paid by the Employer.

Section 8.12. Indemnification. The Employer agrees to indemnify and hold harmless each member of the Committee against any cost, expense, or liability (including any sum paid in settlement of any claim with the approval of the Board of Directors) arising out of any act or omission to act as a member of the Committee, except only acts and omissions representing willful misconduct, fraud, or lack of good faith.

Section 8.13. Powers and Duties of Committee. Subject to the specific limitations stated in this Plan, the Committee will have the following powers, duties, and responsibilities:

(a) To carry out the general administration of the Plan;

(b) To cause to be prepared all forms necessary or appropriate for the administration of the Plan;

(c) To keep appropriate books and records, including minutes of the meetings of the Committee;

(d) To determine, consistent with the provisions of this Plan, the manner in which the Trust Assets will be allocated and disbursed;

(e) To give directions to the Trustee as to the amounts to be disbursed to Members and others under the provisions of the Plan;

(f) To establish written procedures for determining, and to determine in accordance with those procedures, whether a domestic relations order is a Qualified Domestic Relations Order.

(g) To exercise all other powers and duties specifically conferred upon the Committee elsewhere in this Plan and the Trust Agreement;

(h) To exercise all duties and responsibilities imposed by ERISA upon the Committee as administrator of the Plan;

(i) To interpret, with discretionary authority, the provisions of the Plan and to resolve, with discretionary authority, all disputed questions of Plan interpretation including eligibility, rights, and status of Members and others under the Plan; and

(j) To employ agents to assist it in performing its administrative duties.

The Committee will at all times make similar decisions on similar questions involving similar circumstances. Subject to the provisions of ERISA and to the provisions of Article IX relating to claims, all decisions of the Committee made in good faith on all matters within the scope of its authority under the provisions of this instrument will be final and binding upon all persons.

Section 8.14. Matters Specifically Excluded from Jurisdiction. Notwithstanding any other provision of this Plan, the Committee will have no power, duty, or authority with respect to determination of the amounts to be contributed by the Employer to the Trust.

Section 8.15. Investment Manager. The Employer may appoint an investment manager or managers to manage (including the power to acquire and dispose of any Trust Assets) those Trust Assets specified by the Employer, subject to the conditions of this Section.

(a) An appointed investment manager must (1) be registered as an investment adviser under the Investment Advisers Act of 1940; (2) be a bank as defined in that Act; or (3) be an insurance company qualified to perform investment management services in more than one state.

(b) An appointed investment manager must, prior to acting with respect to the Trust Assets, acknowledge in writing that he accepts the duties given him under the Plan and that he is a fiduciary with respect to the Plan.

(c) Upon the appointment of an investment manager, the Employer will notify the Trustee of the appointment in writing, and will deliver to the Trustee a copy of the instruments evidencing the appointment, copies of the written acknowledgement referred to in Subsection (b), and written directions concerning the proper segregation of the Trust Assets into separate investment accounts, if appropriate. The Employer's written notification will constitute a warranty as to the investment manager's qualifications under section 3(38) of ERISA, and the Trustee will be fully protected in relying on the investment manager's continued qualification and authority until otherwise notified in writing by the Employer. The Trustee will follow the directions of an appointed investment manager regarding investment and reinvestment of Trust Assets. The Trustee will be under no obligation to review or give advice with respect to the investment manager's directions.

(d) The Trustee will not be liable for the acts or omissions of the investment manager or be under an obligation to invest or otherwise manage any Trust Assets that are subject to management by the investment manager. The Trustee will have no liability arising out of following the directions of the investment manager.

(e) The Employer may remove an investment manager upon written notice to the Trustee, in which case the Trustee will, until notified of the appointment of a successor investment manager, accept and manage the Trust Assets previously managed by the investment manager.

ARTICLE IX
CLAIMS PROCEDURES

Section 9.01. Presentation of Claims. Any person believing himself to be entitled to a benefit under the Plan may file an application or claim for the benefit with the Committee. The Committee may adopt and supply forms for benefit applications, but no claim will be adversely affected because the claimant has not used the form adopted by the Committee. A claim for a benefit will be deemed to have been made upon receipt by any member of the Committee of a written request for the benefit, signed by the claimant or his representative.

Section 9.02. General Claims Procedures (Claims Not Requiring a Determination of Disability by the Plan). Except as provided in Section 9.03, the following will apply to claims for benefits under the Plan.

(a) If a claim is denied in whole or in part, the Committee, within 90 days after receipt of the claim, will give the claimant written notice of the denial. If special circumstances require extension of the 90-day response period, the Committee may extend the period for up to 90 additional days by notifying the claimant, within the original 90-day period, of the extension, the reason for it, and when a decision can be expected. The notice of a claim denial will state, in a manner calculated to be understood by the claimant, the following:

(1) the specific reason or reasons for the denial;

(2) specific reference to the Plan provision or provisions on which the denial is based;

(3) a description of any additional material or information needed to perfect the claim, and why the information is necessary; and

(4) an explanation of the appeal right and procedure described in Subsection (b).

(b) A claimant whose claim is denied, in whole or in part, will have the right to appeal to the Committee for review of the denial. The following provisions will apply to that right of appeal:

(1) The request for review must be filed with the Committee within 60 days after written notice of denial of the claim.

(2) The request must be in writing signed by the claimant or his authorized representative.

(3) The claimant will have the right, upon request, to review records and documents in the possession of the Committee relating to the claim.

(4) The claimant may submit issues, arguments, and other comments in writing to the Committee, with any documentary evidence in support of his claim.

(5) The decision by the Committee will be given to the claimant in writing within 60 days after receipt by the Committee of the claimant's request for review. If special circumstances require extension of the 60-day period, the Committee may extend the 60-day period for up to 60 additional days by notifying the claimant, within the original 60-day period, of the extension, the reason for it, and when a decision can be expected. If the decision denies the claim, in whole or in part, the decision will state the specific reasons for the denial, including specific references to the Plan provision or provisions on which the denial is based, all stated in language calculated to be understood by the claimant.

Section 9.03. Disability Claims Procedures. These procedures will be followed with respect to claims that require a determination of Disability under the Plan. The Committee will give the claimant notice of the decision on his claim no later than 45 days after the claim is filed. This time period may be extended twice by 30 days if the Committee (1) determine that the extension is required due to matters beyond the control of the Plan and (2) notifies the claimant of the circumstances requiring the extension of time and the date by which the

Committee expects to render a decision. If an extension is necessary due to the claimant's failure to submit the information necessary to decide the claim, the notice of extension will specifically describe the required information, and the claimant will be afforded at least 45 days from receipt of the notice within which to provide the specific information. If the claimant delivers the requested information within the time specified, any 30 day extension period will begin after the claimant has provided that information. If the claimant fails to deliver the requested information within the time specified, the Committee may decide the claim without that information.

(a) If a claim is denied, in whole or in part, the notice of the benefit determination under the Plan will state the following:

(1) the specific reason or reasons for the denial;

(2) specific reference to the Plan provision or provisions on which the denial is based;

(3) a description of any additional material or information needed to complete the claim and why the information is necessary;

(4) a description of the Plan procedures and time limits for appealing the determination, the claimant's right to obtain information about those procedures, and the right to sue in federal court; and

(5) disclosure of any internal rule, guidelines, protocol or similar criterion relied on in making the denial (or state that the information will be provided free of charge upon request).

(b) If a claim for benefits based on a Disability is denied, the claimant will have 180 days from the receipt of the Committee's decision to appeal to the Committee for a review of the denial. The Committee's decision will be given to the claimant in writing, within 45 days after the Committee receives the claimant's signed, written request for review, unless special circumstances require an additional period, up to 45 days, in which case the Committee will notify the claimant of the special circumstances and the date upon which the Committee expects to render its determination on review.

If an extension is necessary due to the claimant's failure to submit the information necessary to decide the appeal, the notice of extension will specifically describe the required information, and the claimant will be afforded at least 45 days from receipt of the notice to provide the specified information. If the claimant delivers the requested information within the time specified, the 45 day extension of the appeal period will begin after the claimant has provided that information. If the claimant fails to deliver the requested information within the time specified, the Committee may decide the appeal without that information. The following provisions apply to the right of appeal:

(1) The claimant will have the opportunity to submit written comments, documents, or other information in support of his appeal.

(2) Upon request, the claimant will have access to all relevant documents as described by applicable U.S. Department of Labor regulations.

(3) The review will take into account all information, whether or not presented or available at the initial determination.

(4) The initial determination will not be afforded any deference.

(5) The review will be conducted by a person different from the person who made the initial determination and who is not the original decision maker's subordinate.

(6) If the decision is made on the grounds of a medical judgment, the Committee will consult with a health care professional with appropriate training and experience. The health care professional will not be the individual who was consulted during the initial determination or that person's subordinate.

(7) The Committee will provide the claimant with the name of any medical or vocational expert who advised the Plan with regard to his claim.

(c) A notice that the request on appeal is denied will contain the following information:

(1) the specific reason(s) for the appeal determination;

(2) a reference to the specific Plan provision(s) on which the determination is based;

(3) a statement disclosing any internal rule, guidelines, protocol or similar criterion relied on in making the adverse determination (or a statement that the information will be provided free of charge upon request);

(4) a statement describing the claimant's right to bring a civil suit under federal law;

(5) a statement that the claimant is entitled to receive upon request, and without charge, reasonable access to or copies of all documents, records or other information relevant to the determination; and

(6) the statement that "You or your plan may have other voluntary alternative dispute resolution options, such as mediation. One way to find out what may be available is to contact your local U.S. Department of Labor Office and your State insurance regulatory agency."

ARTICLE X
LIMITATIONS ON RIGHTS OF
EMPLOYEES AND OTHER PERSONS

Section 10.01. In General. The Plan is strictly a voluntary obligation on the part of the Employer and will not be deemed to constitute a contract between the Employer and any Employee or to be a consideration for, an inducement to, or a condition of the employment of any Employee. Neither the Employer, the Committee, nor the Trustee in any way guarantees against loss or depreciation of any Trust Assets or guarantees the payment of any benefit or amount that may become due under the Plan to any Member, his Beneficiaries, or to any creditor of the Trust. Except as may be otherwise provided by ERISA, neither the Employer nor the Committee will be liable to any person for any act or omission of the Trustee, nor will the Trustee be liable to any person for any act or omission of the Employer or the Committee.

Section 10.02. No Increase or Impairment of Other Rights. Nothing contained in the Plan will be deemed to give any Employee the right to be retained in the Employer's service or will interfere with the Employer's right to discharge or otherwise terminate any Employee's employment.

Section 10.03. Trust Sole Source of Benefits. Except as may be otherwise provided by ERISA, no person will be entitled to any right or claim to benefits except to the extent that the right is specifically fixed under the terms of the Plan and there are Trust Assets available for payment of the benefits.

Section 10.04. Other Limitations of Liability. Except as may be otherwise provided by ERISA, neither the Employer, the Committee, nor the Trustee will be under any liability or responsibility for the validity or effectiveness of the Plan or the Trust Agreement, or for any failure of this Plan or the Trust to qualify at any time or for any period as a tax-exempt plan or trust under the provisions of the Code or any applicable law or for any tax or increase in tax on a Member or Beneficiary because of any benefits.

ARTICLE XI
PROVISIONS DESIGNED TO COMPLY WITH
LIMITATIONS ON BENEFITS AND OTHER ADDITIONS

Section 11.01. Purpose and Construction of This Article. This Article is included in the Plan to comply with limitations imposed by Code section 415, and all provisions of this Article will be construed and applied accordingly.

Section 11.02. General Statement of Limitation. Notwithstanding any other provisions of the Plan, the following limitations on benefits will apply:

(a) When expressed as a benefit payable annually in the form of a straight life annuity, the maximum annual benefit payable to a Member under the Plan, when added to any benefit payable to the Member under any other qualified defined benefit plan maintained by the Employer, is equal to the lesser of (1) $160,000, as adjusted under Code section 415(d), or (2) the Member's average Compensation for the three consecutive Plan Years when the Member had the highest aggregate Compensation, or during all of the Plan Years in which he was an active Member if less than three, subject to the adjustments described below.

(b) If the benefit begins before age 62, the Dollar Limit applicable to the Member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the Dollar Limit applicable to the Member at age 62 (adjusted under (A) above, if required). The Dollar Limit applicable at an age prior to age 62 is determined as the lesser of (i) the actuarial equivalent (at such age) of the Dollar Limit computed using the interest rate and mortality table (or other tabular factor) specified in the definitions of "Actuarial Equivalent" and "Applicable Percentage" at Section 2.01 of the Plan and (ii) the actuarial equivalent (at such age) of the Dollar Limit computed using a 5 percent interest rate and the applicable mortality table as defined in the definitions of "Actuarial Equivalent" at Section 2.01 of the Plan. Any decrease in the Dollar Limit determined in accordance with this Paragraph (B) will not reflect a mortality decrement if benefits are not forfeited upon the death of the Member. If any benefits are forfeited upon death, the full mortality decrement is taken into account.

(c) If the benefit begins after the Member attains age 65, the Dollar Limit applicable to the Member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the Dollar Limit applicable to the Member at age 65 (adjusted under (A) above, if required). The actuarial equivalent of the Dollar Limit applicable at an age after age 65 is determined as (i) the lesser of the actuarial equivalent (at such age) of the Dollar Limit computed using the interest rate and mortality table (or other tabular factor) specified in the definitions of "Actuarial Equivalent" and "Applicable Percentage" at Section 2.01 of the Plan and (ii) the actuarial equivalent (at such age) of the Dollar Limit computed using a 5 percent interest rate assumption and the applicable mortality table as defined in the definition of "Actuarial Equivalent" at Section 2.01 of the Plan. For these purposes, mortality between age 65 and the age at which benefits commence will be ignored.

(d) If the benefit is payable in a form other than a straight life annuity, the benefit will be adjusted in accordance with regulations prescribed by the Secretary to an equivalent benefit. For this purpose, the portion of a joint and survivor annuity that constitutes a Qualified Joint and Survivor Annuity and any ancillary benefits will not be taken into account.

(e) For purposes of adjusting the limit under paragraph (d) for any form of benefit subject to Code section 417(e)(3), the interest rate assumption used in 2004 and 2005 will be the greater of 5.5% and the rate used to compute an Actuarial Equivalent. Notwithstanding the preceding sentence, in the case of benefit paid after December 31, 2003 and before January 1, 2005, the amount payable under a form of benefit subject to Code section 417(e)(3) will not, solely by reason of the preceding sentence, be less than the amount that would have been payable had the amount payable been determined using the applicable interest rate (as defined in Code section 417(e)(3)) in effect as of December 31, 2003. Also

for these purposes, the interest rate assumption used in 2006 and later Plan Years will be the greatest of 5.5%, the rate that provides a benefit of not more than 105% of the benefit that would be provided if the applicable interest rate (as defined in Code section 417(e)(3)) were the interest rate assumption, and the rate used to compute an Actuarial Equivalent. For purposes of adjusting any limit or benefit under paragraph (b), (c) or (d), the mortality table used will be the table prescribed in Code section 417(e)(3).

(f) Notwithstanding the preceding Subsections, the benefit payable to a Member will be deemed not to exceed the limitations of this Section if the Member has at no time participated in any defined contribution plan maintained by the Employer and the benefit payable to the Member under this Plan and all other defined benefit plans maintained by the Employer do not exceed $10,000 for the Plan Year or any prior Plan Year.

(g) If the Member's benefit begins when he has fewer than 10 years of participation in the Plan, the Dollar Limit will instead be a limit equal to the product of the Dollar Limit and a fraction, the numerator of which is the number of years of participation in the Plan and the denominator of which is 10. The preceding sentence will apply to the Compensation Limit and the limit described at Subsection (f), except that it will be applied with respect to Years of Benefit Service rather than years of participation in the Plan. In no event will the preceding provisions of this Subsection reduce the Dollar Limit, the Compensation Limit, or the limit described at Subsection (f) to an amount less than 1/10 of the particular limit.

ARTICLE XII
AMENDMENT, MERGER AND TERMINATION

Section 12.01. Amendment of Plan. The Board of Directors reserves the right at any time and from time to time, and retroactively if deemed necessary or appropriate, to amend in whole or in part any or all of the provisions of the Plan. With the prior authorization of the Board of Directors, the President of ESI may also amend the Plan. A certified copy of the resolution of the Directors or the written directive of the President making the amendment will be delivered to the Trustee. The Plan will be amended in the manner and effective as of the date set forth in the resolution or directive, and the Employees, Members, Beneficiaries, the Trustee, and all others having any interest under the Plan will be bound by the amendment. However, no amendment will make it possible for any part of the funds of the Plan to be used for, or diverted to, purposes other than for the exclusive benefit of persons entitled to benefits under the Plan, before the satisfaction of all liabilities with respect to them. No amendment will be made that has the effect of decreasing the accrued benefit of any Member or of reducing the nonforfeitable percentage of the accrued benefit of any Member below the nonforfeitable percentage computed under the Plan as in effect on the date on which the amendment is adopted or, if later, the date on which the amendment becomes effective.

Section 12.02. Amendments Necessary to Bring Plan into Compliance with the Code and ERISA. Notwithstanding any other provision of the Plan, any modification or amendment of the Plan may be made, retroactively if necessary, that may be required (a) to cause the Trust to constitute a qualified trust under the provisions of Code section 401, or (b) to comply in every respect with ERISA.

Section 12.03. Amendments to Vesting Provisions. If the Plan's vesting provisions are amended, each Member with at least three Years of Vesting Service may elect, within the period specified in the following sentence, to have his nonforfeitable percentage computed under the Plan without regard to the amendment. The period during which the election may be made will begin with the date the amendment is adopted and will end 60 days after the latest of the following events occurs: (1) the amendment is adopted, (2) the amendment becomes effective, or (3) the Member is issued written notice of the amendment by the Employer.

Section 12.04. Merger or Consolidation. The Plan may not be merged or consolidated with, and its assets or liabilities may not be transferred to, any other plan unless each person entitled to benefits under the Plan would, if the resulting plan were then terminated, receive a benefit immediately after the merger, consolidation, or transfer that is equal to or greater than the benefit he would have been entitled to receive immediately before the merger, consolidation, or transfer if the Plan had then terminated.

Section 12.05. Termination of Plan. The Plan is intended to be permanent, and the Trust created in support of the Plan is intended to be irrevocable, except in the manner and to the extent otherwise provided in the Plan or in the Trust Agreement. The Board of Directors may terminate the Plan for any reason at any time. A certified copy of the resolution of the Directors terminating the Plan will be delivered to the Trustee, and the Plan will be terminated as of the date of termination specified in the resolution. In addition, the Plan will terminate upon (a) the cessation of business operations by the Employer unless a successor employer continues the Plan and becomes a party to the Trust Agreement or (b) the legal adjudication of the Employer as a bankrupt; a general assignment by the Employer to or for the benefit or its creditors; or the voluntary or involuntary dissolution of the Employer. In case of termination of the Plan, the rights of Members to the benefits accrued under the Plan to the date of the termination, to the extent then funded or guaranteed by the Pension Benefit Guaranty Corporation, if greater, will be nonforfeitable. The funds of the Plan will be used for the exclusive benefit of persons entitled to benefits under the Plan as of the date of termination, except as provided in Section 4.04. However, any funds not required to satisfy all liabilities of the Plan for benefits because of erroneous actuarial computation will revert to and be returned to the Employer. The Committee will determine on the basis of actuarial valuation the share of the funds of the Plan allocable to each person entitled to benefits under the Plan in accordance with section 4044 of ERISA, or corresponding provision of any applicable law in effect at the time. In the event of a partial termination of the Plan, the provisions of this Section will be applicable to the Members affected by that partial termination. Effective January 1, 2008, in accordance with Code section 411(b)(5)(B)(vi), on termination of the Plan (a) if the interest credit rate under Section 6.04 is a variable rate, the rate of interest used to determine accrued benefits under the Plan will be equal to the average of the rates used under the Plan during the 5-year period ending on the termination date, and (b) the interest rate and mortality table used to determine the amount of any benefit under the Plan payable in the form of an annuity payable at normal retirement age will be the rate and table specified under the Plan for this purpose as of the termination date (without regard to termination of the Plan), except that if the interest rate is a variable rate, it will be determined under the rules of the preceding sentence.

Section 12.06. Limitation Concerning 25 Highest Paid Employees.

(a) The provisions of this Section will apply (1) if the Plan is terminated, to any Member who is a Highly Compensated Member and (2) in any other event, to any Member who is one of the 25 Highly Compensated Members with the greatest compensation in any Plan Year. The amount of the annual payments to any of the Members to whom this Section applies will not be greater than an amount equal to the payments that would be made on behalf of the Member under a single life annuity that is the Actuarial Equivalent of the present value of the balance of the Member's Cash Balance Account.

(b) If, (1) after payment to any one of the 25 Highly Compensated Members described above to whom this Section applies of his benefits, the value of Plan assets equals or exceeds 110 percent of the value of current liabilities (as that term is defined in Code section 412(1)(7)) of the Plan, or (2) the value of the benefits of any one of the 25 Highly Compensated Members to whom this Section applies is less than one percent of the value of current liabilities of the Plan, the provisions of Subsection (a) will not be applicable to the payment of benefits to that Member.

(c) Notwithstanding Subsection (a), if the Plan is terminated, the restriction of this Section will not be applicable if the benefits payable to any Highly Compensated Member is limited to a benefit that is nondiscriminatory under Code section 401(a)(4).

(d) If it should subsequently be determined by statute, court decision acquiesced in by the Commissioner of Internal Revenue, or ruling by the Commissioner of Internal Revenue, that the provisions of this Section are no longer necessary to qualify the Plan under the Code, this Section will have no further effect without the necessity of further amendment to the Plan.

ARTICLE XIII
PROVISIONS RELATING TO TOP-HEAVY PLAN

Section 13.01. Construction of this Article. This Article will be construed in accordance with Code section 416 and the regulations thereunder.

Section 13.02. Top-Heavy Determination. For each Plan Year, the Committee will determine whether the Plan is a Top- Heavy Plan.

(a) The Plan will be determined to be a Top-Heavy Plan if it satisfies either Paragraph (1) or Paragraph (2).

(1) Except as provided in Paragraph (3), the Plan will be a Top-Heavy Plan for a Plan Year if, as of the Determination Date, the present value of the accumulated accrued benefits under the Plan of Key Employees exceeds 60% of the present value of the accumulated accrued benefits under the Plan of all Employees.

(2) Except as provided in Paragraph (3), the Plan will be a Top-Heavy Plan for a Plan Year if it is included in a Required Aggregation Group that is a Top-Heavy Group for the Plan Year.

(3) The Plan will not be a Top-Heavy Plan for a Plan Year if it is included in an Aggregation Group (whether a Required Aggregation Group or a Permissive Aggregation Group) that is not a Top-Heavy Group for the Plan Year.

(b) An Aggregation Group will be a Top-Heavy Group for the Plan Year if (as of the respective Determination Dates that occur in the same calendar year for each of the plans in the Aggregation Group) the sum of:

(1) the present value of the cumulative accrued benefits for Key Employees under all defined benefit Retirement Plans included in the Aggregation Group, and

(2) the aggregate balances of the accounts of Key Employees under all defined contribution Retirement Plans included in the Aggregation Group, exceeds 60% of a similar sum determined for all Employees.

(c) In making the determinations required by this Section, the rules of Section 13.03 will apply.

Section 13.03. Special Rules Relating to Determination of Top-Heavy Status. In making the determinations required by this Article, the following rules will apply:

(a) In determining the present value of an Employee's accrued benefits under any defined benefit Retirement Plan, the mortality table and interest rate used for actuarial equivalents in that Retirement Plan will be used. In addition, subsidized benefits will not be taken into account unless they are nonproportional subsidies.

(b) For purposes of determining the present value of an Employee's cumulative accrued benefits and the aggregate balances of his accounts under this Article, distributions made with respect to the Employee during the 1-year period ending on the Determination Date will be taken into account. The preceding sentence will also apply to distributions under a terminated Retirement Plan that would have been required to be included in the Aggregation Group if the Retirement Plan had not been terminated. In the case of a distribution made for a reason other than severance from employment, death, or Disability, this provision will be applied by substituting a 5-year period for the 1-year period.

(c) All Retirement Plans included in the Required Aggregation Group must be aggregated to determine whether they constitute a Top-Heavy Group.

(d) If an individual is a Non-Key Employee with respect to any Retirement Plan for a Plan Year, but the individual was a Key Employee with respect to the Retirement Plan for any prior Plan Year, no accrued benefit or account of the Employee will be taken into account in determining top-heavy status.

(e) If an individual has not performed any service for the Employer at any time during the 1-year period ending on the Determination Date, the accrued benefits and accounts of that individual will not be taken into account.

(f) For purposes of determining the present value of the accrued benefit of an Employee other than a Key Employee, the accrued benefit will be determined (1) under the method used for accrual purposes for all Retirement Plans of the Employer, or (2) if there is no method described in Clause (1), as if the benefit accrued not more rapidly than the slowest accrual rate permitted under Code section 411(b)(1)(C).

ARTICLE XIV
MISCELLANEOUS PROVISIONS

Section 14.01. No Duplication of Benefits. Nothing in this Plan will be construed to permit any duplication of the benefits of a former Member upon his re-entry into the Plan as a Member after Separation from Service. Any such duplication of benefits is specifically prohibited.

Section 14.02. Named Fiduciaries. The Employer, the Committee, and the Trustee are hereby designated as named fiduciaries with respect to the Plan. Each named fiduciary will have only such authority as to the control and management of the operation and administration of the Plan as is specifically given to it by the provisions of the Plan. No named fiduciary will be subject to the direction or control of another named fiduciary except to the extent, and in the manner, specifically provided herein or in the Trust Agreement. Each named fiduciary will discharge his duties with respect to the Plan in accordance with the applicable provisions of ERISA.

Section 14.03. Bonding. Each fiduciary of the Plan and Trust and each person who handles funds of the Plan and Trust will be bonded, except a corporate Trustee who is exempt from the ERISA bonding requirements.

Section 14.04. Qualified Military Service. Notwithstanding any other provisions of this Plan to the contrary, contributions, benefits and service credits with respect to qualified military service will be provided in accordance with Code section 414(u).

ARTICLE XV
MINIMUM DISTRIBUTION REQUIREMENTS

Section 15.01. Time and Manner of Distributions.

(a) Required Beginning Date. The Member's entire interest will be distributed, or begin to be distributed, to the Member no later than the Member's Required Beginning Date.

(b) Death of Member Before Distributions Begin. Unless a Member or beneficiary elects to apply the Five-Year Rule pursuant to Section 15.05, if the Member dies before distributions begin, the Member's entire interest will be distributed, or begin to be distributed, no later than as follows:

(1) If the Member's surviving Spouse is the Member's sole designated beneficiary, then distributions to the surviving Spouse will begin by December 31 of the calendar year immediately following the calendar year in which the Member died, or by December 31 of the calendar year in which the Member would have attained age 70 $^{1}/2$, if later.

(2) If the Member's surviving Spouse is not the Member's sole designated beneficiary, then distributions to the designated beneficiary will begin by December 31 of the calendar year immediately following the calendar year in which the Member died.

(3) If there is no designated beneficiary as of September 30 of the year following the year of the Member's death, the Member's entire interest will be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(4) If the Member's surviving Spouse is the Member's sole designated beneficiary, and the surviving Spouse dies after the Member but before distributions to the surviving Spouse begin, this Subsection 15.01(b), other than Paragraph 15.01(b)(1), will apply as if the surviving Spouse were the Member.

For purposes of this Subsection 15.01(b) and Section 15.04, distributions are considered to begin on the Member's Required Beginning Date (or, if Paragraph 15.01(b)(4) applies, the date distributions are required to begin to the surviving Spouse under Paragraph 15.01(b)(1)). If annuity payments irrevocably commence to the Member before the Member's Required Beginning Date (or to the Member's surviving Spouse before the date distributions are required to begin to the surviving Spouse under Paragraph 15.01(b)(1)), the date distributions are considered to begin is the date distributions actually commence.

(c) Forms of Distribution. Unless the Member's interest is distributed in the form of an annuity purchased from an insurance company or in a single sum on or before the Required Beginning Date, as of the first distribution calendar year distributions will be made in accordance with Sections 15.02, 15.03 and 15.04. If the Member's interest is distributed in the form of an annuity purchased from an insurance company, distributions thereunder will be made in accordance with the requirements of Code section 401(a)(9) and the Treasury regulations. Any part of the Member's interest which is in the form of an individual account described in Code section 414(k) will be distributed in a manner satisfying the requirements of Code section 401(a)(9) and the Treasury regulations that apply to individual accounts.

Section 15.02. Determination of Amount to be Distributed Each Year.

(a) General Annuity Requirements. If the Member's interest is paid in the form of annuity distributions under the Plan, payments under the annuity will satisfy the following requirements:

(1) The annuity distributions will be paid in periodic payments made at intervals not longer than one year.

(2) The distribution period will be over a life (or lives) or over a period certain not longer than the period described in Section 15.03 or 15.04.

(3) Once payments have begun over a period certain, the period certain will not be changed even if the period certain is shorter than the maximum permitted.

(4) Payments will either be nonincreasing or increase only as follows:

(A) by an annual percentage increase that does not exceed the annual percentage increase in a cost-of-living index that is based on prices of all items and issued by the Bureau of Labor Statistics;

(B) to the extent of the reduction in the amount of the Member's payments to provide for a survivor benefit upon death, but only if the beneficiary whose life was being used to determine the distribution period described in Section 15.03 dies or is no longer the Member's beneficiary pursuant to a Qualified Domestic Relations Order;

(C) to provide cash refunds of Member contributions upon the Member's death; or

(D) to pay increased benefits that result from a Plan amendment.

(b) Amount Required to be Distributed by Required Beginning Date. The amount that must be distributed on or before the Member's Required Beginning Date (or, if the Member dies before distributions begin, the date distributions are required to begin under Paragraph 15.01(b)(1) or 15.01(b)(2)) is the payment that is required for one payment interval. The second payment need not be made until the end of the next payment interval even if that payment interval ends in the next calendar year. Payment intervals are the periods for which payments are received, such as, bi-monthly, monthly, semi-annually, or annually. All of the Member's benefit accruals as of the last day of the first distribution calendar year will be included in the calculation of the amount of the annuity payments for payment intervals ending on or after the Member's required beginning date.

(c) Additional Accruals After First Distribution Calendar Year. Any additional benefits accruing to the Member in a calendar year after the first distribution calendar year will be distributed beginning with the first payment interval ending in the calendar year immediately following the calendar year in which the amount accrues.

Section 15.03. Requirements For Annuity Distributions That Commence During Member's Lifetime.

(a) Joint Life Annuities Where the Beneficiary Is Not the Member's Spouse. If the Member's interest is being distributed in the form of a joint and survivor annuity for the joint lives of the Member and nonspouse beneficiary, annuity payments to be made on or after the Member's Required Beginning Date to the designated beneficiary after the Member's death must not at any time exceed the applicable percentage of the annuity payment for that period that would have been payable to the Member using the table set forth in Q&A-2 of section 1.401(a)(9)-6 of the Treasury regulations. If the form of distribution combines a joint and survivor annuity for the joint lives of the Member and a nonspouse beneficiary and a period certain annuity, the requirement in the preceding sentence will apply to annuity payments to be made to the designated beneficiary after the expiration of the period certain.

(b) Period Certain Annuities. Unless the Member's Spouse is the sole designated beneficiary and the form of distribution is a period certain and no life annuity, the period certain for an annuity distribution commencing during the Member's lifetime may not exceed the applicable distribution period for the Member under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations for the calendar year that contains the Annuity Starting Date. If the Annuity Starting Date precedes the year in which the Member reaches age 70, the applicable distribution period for the Member is the distribution period for age 70 under the Uniform Lifetime Table set forth in section 1.401(a)(9)-9 of the Treasury regulations plus the excess of 70 over the age of Member as of the Member's birthday in the year that contains the annuity starting date. If the Member's Spouse is the Member's sole designated beneficiary and the form of distribution is a period certain and not a life annuity, the period certain may not exceed the longer of the Member's applicable distribution period, as determined under this Subsection 15.03(b), or the joint life and last survivor expectancy of the Member and the Member's Spouse as determined under the Joint and Last Survivor Table set forth in section 1.401(a)(9)-9 of the Treasury regulations, using the Member's and Spouse's attained ages as of the Member's and Spouse's birthdays in the calendar year that contains the Annuity Starting Date.

Section 15.04. Requirements For Minimum Distributions Where Member Dies Before Date Distributions Begin. Unless an Member or beneficiary elects to apply the Five-Year Rule pursuant to Section 15.05, the Member's interest will be distributed as follows:

(a) Member Survived by Designated Beneficiary. If the Member dies before the date on which distribution of his or her interest begins and there is a designated beneficiary, the Member's entire interest will be distributed, beginning no later than the time described in Paragraph 15.01(b)(1) or 15.01(b)(2), over the life of the designated beneficiary or over a period certain not exceeding:

(1) Unless the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year immediately following the calendar year of the Member's death; or

(2) If the Annuity Starting Date is before the first distribution calendar year, the life expectancy of the designated beneficiary determined using the beneficiary's age as of the beneficiary's birthday in the calendar year that contains the Annuity Starting Date.

(b) No Designated Beneficiary. If the Member dies before the date distributions begin and there is no designated beneficiary as of September 30 of the year following the year of the Member's death, distribution of the Member's entire interest will be completed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(c) Death of Surviving Spouse Before Distributions to Surviving Spouse Begin. If the Member dies before the date distribution of his or her interest begins, the Member's surviving Spouse is the Member's sole designated beneficiary, and the surviving Spouse dies before distributions to the surviving Spouse begin, this Section 15.04 will apply as if the surviving Spouse were the Member, except that the time by which distributions must begin will be determined without regard to Paragraph 15.01(b)(1).

Section 15.05. Election of Five-Year Rule. A Member or beneficiary may elect to apply the Five-Year Rule instead of the life expectancy rule of Subsection 15.01(b) and Section 15.04. The Member or beneficiary's election must be made no later than the earlier of September 30 of the calendar year in which distribution would be required to begin under Subsection 15.01(b), or by September 30 of the calendar year which contains the fifth anniversary of the Member's (or, if applicable, surviving Spouse's) death.

Section 15.06. Definitions.

(a) Designated Beneficiary. A "designated beneficiary" is the individual who is the designated beneficiary under Code section 401(a)(9) and section 1.401(a)(9)-1, Q&A-4, of the Treasury regulations.

(b) Member. For purposes of Article XVI of the Plan, the term "Member" includes any Member and, where applicable, any Deferred Benefit Member or Retired Member.

(c) Five-Year Rule. The "Five-Year Rule" requires that a Member's entire interest must be distributed by December 31 of the calendar year containing the fifth anniversary of the Member's death.

(d) Life Expectancy. "Life expectancy" is the life expectancy computed by use of the Single Life Table in section 1.401(a)(9)-9 of the Treasury regulations.

ITT Educational Services, Inc. has caused this 2012 restatement of the ESI Pension Plan to be executed by its duly authorized officer on this 28th day of November, 2011.

ITT EDUCATIONAL SERVICES, INC.
By: /s/ Nina Esbin
(Signature)
Nina Esbin
(Printed)
SVP, Human Resources
(Title)

ATTEST:
/s/ Carolyn K. Herald
(Signature)
Carolyn K. Herald
(Printed)

Retirement Specialist
(Title)

Exhibit 10.28

**FIRST AMENDMENT TO THE ITT EDUCATIONAL SERVICES, INC.
SENIOR EXECUTIVE SEVERANCE PLAN**

WHEREAS, ITT Educational Services, Inc. (the "Company") adopted the ITT Educational Services, Inc. Senior Executive Severance Plan (the "Plan") on October 22, 2007; and

WHEREAS, the Board of Directors of the Company now desires to amend the Plan in certain respects.

NOW, THEREFORE, the Plan is hereby amended as follows:

1. Section 9 of the Plan is hereby amended by deleting the definition of the term "Acceleration Event" and inserting the following in replacement thereof:

> "Acceleration Event" means any of the following: (i) a report on Schedule 13D is filed with the Securities and Exchange Commission pursuant to Section 13(d) of the Act disclosing that any Person, other than ESI or an ESI Subsidiary or any employee benefit plan sponsored by ESI or an ESI Subsidiary, is the beneficial owner directly or indirectly of 20% or more of the outstanding shares of the Stock; provided, however, that an increase in the percentage of the outstanding shares of the Stock beneficially owned by any Person solely as a result of a reduction in the number of shares of the Stock then outstanding due to the repurchase by the Company of such Stock shall not constitute an Acceleration Event; provided further that, for the avoidance of doubt, any subsequent acquisition of shares of the Stock by any Person as a result of which immediately following such acquisition such Person beneficially owns (within the meaning of Section 13(d) of the Act) 20% or more of the outstanding shares of the Stock shall constitute an Acceleration Event; (ii) any Person, other than ESI or an ESI Subsidiary, or any employee benefit plan sponsored by ESI or an ESI Subsidiary, purchases shares pursuant to a tender offer or exchange offer to acquire any Stock (or securities convertible into Stock) for cash, securities or any other consideration, provided that after consummation of the offer, the Person in question is the beneficial owner (as such term is defined in Rule 13d-3 under the Act), directly or indirectly, of fifteen (15) percent or more of the outstanding Stock (calculated as provided in paragraph (d) of Rule 13d-3 under the Act in the case of rights to acquire Stock); (iii) the stockholders of ESI approve (A) any consolidation or merger of ESI in which ESI is not the continuing or surviving corporation or pursuant to which shares of Stock would be converted into cash, securities or other property, other than a merger of ESI in which holders of Stock immediately prior to the merger have the same proportionate ownership of common stock of the surviving corporation immediately after the merger as they had in the Stock immediately before, or (B) any sale, lease, exchange or other transfer (in one transaction or a series of related transactions) of all or substantially all the assets of ESI; or (iv) a change in a majority of the members of the Board of Directors of ESI occurring within a twelve (12) month period, unless the election or nomination for election by ESI's stockholders of each new director

during that twelve (12) month period was approved by the vote of two-thirds of the directors then still in office who were directors at the beginning of that twelve (12) month period.

2. This First Amendment to the Plan shall become effective upon its adoption by the Board of Directors of the Company.

Adopted by the Board of Directors of ITT Educational Services, Inc. on February 21, 2012

Exhibit 10.29

Description of ITT Educational Services, Inc.'s Executive and Director Compensation

2012 Executive Salaries

On January 23, 2012, the Compensation Committee of our Board of Directors authorized a salary increase for our named executive officers effective February 13, 2012, other than our Chief Executive Officer whose salary remains the same as in the prior year. The named executive officers are those executive officers of ours who will be included as such in the Proxy Statement for our 2012 Annual Meeting of Shareholders. The following table sets forth the 2012 base salary information for each of our named executive officers as of February 13, 2012.

Named Executive Officer	2012 Salary
Kevin M. Modany	$ 788,250
Daniel M. Fitzpatrick	$ 335,320
Clark D. Elwood	$ 330,270
Eugene W. Feichtner	$ 305,525
June M. McCormack	$ 272,700

2012 Short-Term Compensation

On January 23, 2012, the Compensation Committee established a short-term compensation element for our executive officers that will be payable in early 2013, if certain management objectives (the "2012 Management Objectives") are accomplished during 2012. The 2012 Management Objectives include:

- develop and implement a new learning technology application;
- design, develop and implement modifications and enhancements to the comprehensive model for assessment of student learning;
- reach all 2012 curriculum development and design milestones by certain dates;
- successfully execute the 2012 advertising and marketing strategy;
- obtain the requisite regulatory authorizations consistent with the 2012 operating plan;
- execute corporate development initiatives identified in our strategic plan;
- reach all 2012 milestones for an updated student information system by certain dates; and
- compile student and employer satisfaction data that demonstrate anticipated levels of satisfaction.

The determination of whether the 2012 Management Objectives are accomplished by our executive officers will be made by the Compensation Committee in early 2013. The Committee intends to assign five points to each 2012 Management Objective that it determines was accomplished. The following table sets forth the maximum short-term compensation percentage that is associated with the aggregate number of points assigned to the 2012 Management Objectives that the Compensation Committee determines were accomplished in 2012:

Aggregate Number of Points	Maximum Short-Term Compensation Percentage
40	200.0%
35	175.0%
30	150.0%
25	125.0%
20	100.0%
15	75.0%
10	50.0%
5	25.0%

To determine the maximum short-term compensation amount that an executive officer may receive, the maximum short-term compensation percentage (determined as described above) will be multiplied by a standard short-term compensation percentage of annualized base salary as of December 31, 2012, ranging from 32% to 100%, with the percentage depending on the officer's position, and the result will be multiplied by the officer's annualized base salary. The following table sets forth the 2012 standard short-term compensation percentage of annualized base salary as of December 31, 2012 for each of the named executive officers:

Named Executive Officer	2012 Standard Short-Term Compensation Percentage of Annualized Base Salary
Kevin M. Modany	100%
Daniel M. Fitzpatrick	65%
Clark D. Elwood	65%
Eugene W. Feichtner	60%
June M. McCormack	60%

An executive officer's actual short-term compensation payment, however, may be more or less than the officer's potential short-term compensation as calculated as described above. An executive officer's actual short-term compensation amount will be based on the Compensation Committee's discretionary assessment of the officer's individual contribution toward accomplishing each 2012 Management Objective. Any 2012 short-term compensation payment will be made in cash. The Compensation Committee may, in its sole discretion, modify the terms of the short-term compensation element at any time before it is paid.

2012 Executive Perquisites

On January 23, 2012, the Compensation Committee of our Board of Directors also approved the following executive perquisites in 2012 for our named executive officers:

- for Mr. Modany, the use of a company car;
- for Mr. Modany, an allowance to be used for tax return preparation and financial planning of up to 2% of annualized base salary as of April 1, 2012;
- for Messrs. Fitzpatrick, Elwood and Feichtner and Ms. McCormack, an allowance to be used for tax return preparation and financial planning of up to 1% of annualized base salary as of April 1, 2012; and
- for each of the Named Executive Officers:
  - tickets to sporting, theater and other events;
  - enhanced disability benefits; and
  - an annual physical examination.

The aggregate incremental cost to us in 2012 for providing all of the 2012 perquisites described above is not expected to exceed $125,000.

2012 Director Compensation

The compensation for non-employee Directors on our Board of Directors in 2012 consists of:

- an annual retainer of $75,000 payable in one installment on January 1, 2012, at the election of each non-employee Director, in cash or shares of our common stock in increments of 25% each;
- no separate meeting fees;
- a grant under the 2006 ITT Educational Services, Inc. Equity Compensation Plan of restricted stock units ("RSUs") with a time-based period of restriction that:
  - has a value of $100,000, plus the value associated with any fractional RSU necessary to cause the grant to be for a whole number of RSUs, pursuant to which the value is determined based on the closing market price of a share of our common stock on the effective date of the grant;
  - is effective on the tenth business day following our 2012 Annual Meeting of Shareholders;
  - has a time-based period of restriction of three years; and
  - is settled on the first business day following the last day of the period of restriction by the delivery of one share of our common stock for each RSU in the grant.

We also reimburse Directors for reasonable, out-of-pocket travel expense related to attending our Board of Directors and its committee meetings and other business of the Board.

Exhibit 21

Subsidiaries

The following table sets forth the information on our subsidiaries that is required to be reported under Item 601 of the SEC's Regulation S-K.

Name	State of Incorporation or Organization	Name Under Which Business is Conducted
ESI Service Corp.	Delaware	ESI Service Corp.
ESI Maryland Corp.	Maryland	ITT Technical Institute
Daniel Webster College, Inc.	Indiana	Daniel Webster College

Exhibit 23

Consent of Independent Registered Public Accounting Firm

We hereby consent to the incorporation by reference in the Registration Statement on Form S-8 (No.'s 33-80435, 333-38883, 333-56493, 333-84871 and 333-133915) of ITT Educational Services, Inc. of our report dated February 23, 2012 relating to the financial statements, financial statement schedule and the effectiveness of internal control over financial reporting, which appears in this Form 10-K.

/s/ PricewaterhouseCoopers LLP
PricewaterhouseCoopers LLP
Indianapolis, Indiana
February 23, 2012

Exhibit 31.1

CERTIFICATION PURSUANT TO
RULE 13a–14(a)/15d–14(a) OF THE
SECURITIES EXCHANGE ACT OF 1934

I, Kevin M. Modany, certify that:

1. I have reviewed this annual report on Form 10-K of ITT Educational Services, Inc.;
2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;
3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;
4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

   a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

   b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

   c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

   d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and
5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

   a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

   b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2012

/s/ Kevin M. Modany
Chief Executive Officer

Exhibit 31.2

CERTIFICATION PURSUANT TO
RULE 13a–14(a)/15d–14(a) OF THE
SECURITIES EXCHANGE ACT OF 1934

I, Daniel M. Fitzpatrick, certify that:

1. I have reviewed this annual report on Form 10-K of ITT Educational Services, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer(s) and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter (the registrant's fourth fiscal quarter in the case of an annual report) that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer(s) and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

Date: February 24, 2012

/s/ Daniel M. Fitzpatrick
Chief Financial Officer

Exhibit 32.1

CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002

In connection with the Annual Report of ITT Educational Services, Inc. (the "Company") on Form 10-K for the period ending December 31, 2011 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Kevin M. Modany, Chief Executive Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Kevin M. Modany
Chief Executive Officer
February 24, 2012

Exhibit 32.2

**CERTIFICATION PURSUANT TO
18 U.S.C. SECTION 1350,
AS ADOPTED PURSUANT TO
SECTION 906 OF THE SARBANES-OXLEY ACT OF 2002**

In connection with the Annual Report of ITT Educational Services, Inc. (the "Company") on Form 10-K for the period ending December 31, 2011 as filed with the Securities and Exchange Commission on the date hereof (the "Report"), I, Daniel M. Fitzpatrick, Chief Financial Officer of the Company, certify, pursuant to 18 U.S.C. § 1350, as adopted pursuant to § 906 of the Sarbanes-Oxley Act of 2002, that:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

/s/ Daniel M. Fitzpatrick
Chief Financial Officer
February 24, 2012