September 13, 2018

Ashley Higgins
U.S. Department of Education
400 Maryland Ave, S.W.
Mail Stop 294-20
Washington, DC 20202

Dear Ms. Higgins:

The American Association of Community Colleges (AACC) and the Association of Community College Trustees (ACCT) appreciate the opportunity to provide comments on the U.S. Department of Education's notice of proposed rulemaking (NPRM) on gainful employment (GE) (Docket ID ED-2018-OPE-0042). Our organizations represent the chief executive officers and trustees of the nation's more than 1,100 community colleges.

Community colleges have a major stake in GE regulation and related issues. Public institutions operate nearly 2,500 programs subject to GE regulations, serving hundreds of thousands of students. Since 2009, our associations have repeatedly commented on GE regulations. We appreciate the department's work in this area and wish to offer the following views.

Origin and Purpose of the Gainful Employment Regulations

Community colleges have consistently supported the overarching goals of the gainful employment (GE) regulations. We continue to support the use of GE regulatory authority to curtail Title IV eligibility for programs that fail to meet their express purpose and leave graduates with significant debt and relatively low earnings. It is important that students who devote time and money to a postsecondary program can reasonably prosper from that investment. This includes ensuring that graduates of GE programs are not precluded from receiving licensure or working in their field of study due to fundamental deficiencies in their academic program. Simply replacing this accountability metric with forthcoming consumer information via the College Scorecard does not sufficiently protect students from poorly performing programs.

There are many differing and strongly held views about the department's implementation of its GE authority, which was not exercised for almost four decades. Ideally, this issue would be clarified by Congress through the reauthorization of the Higher Education Act (HEA). Since it is unlikely that the HEA will be reauthorized in the near-term, it remains incumbent on the department to regulate in this area. We therefore oppose the department's proposal to rescind the GE regulation entirely.

Validity of the Debt-to-Earnings Metric

Our associations continue to support debt-to-earnings (D/E) as an appropriate accountability metric to determine gainful employment program eligibility. Most students pursue career or certificate programs to enhance their employability and earnings, and while strong earnings outcomes are not a sure indicator of program quality, low earnings coupled with high Title IV debt should be avoided. While there is no definitive, precise metric of what students can borrow and subsequently repay based on a particular level of post-college earnings, the D/E metric is fundamentally sound. In fact, D/E is a better metric for holding institutions accountable for program quality—and more positively impactful for students—than the HEA's cohort institutional default rate-related penalties. While cohort default rates largely fail to account for borrowing rates and cumulative debt levels, debt-to-earnings reflects the financial return on investment for students who borrow.

Between the time that the GE regulation went into effect and the first year for which D/E was calculated and publicly released, the number of GE programs declined substantially, from 39,000 to 27,000. This suggests that institutions chose to eliminate many programs that would likely have failed D/E. Conversely, the NPRM estimates that repealing GE will add $4.5 billion in costs to the Pell Grant program over the next decade. This shows that many programs that would have been deemed as unwise investments for students under GE will once again be eligible for Title IV.

The reduction of programs offered under GE does not necessarily correlate to lost opportunity for students overall. Rather, there have been shifts in the institutions where GE programs are pursued. According to the department's National Center on Education Statistics (NCES), the number of certificates conferred by public institutions from the 2010-2011 academic year to the 2015-2016 academic year increased by nearly 100,000. This occurred despite a 17 percent drop in enrollment at two-year public institutions between fall of 2011 and fall of 2016, according to the National Student Clearinghouse. Over the same time period, the proprietary sector experienced a 40 percent reduction in certificates conferred. This phenomenon of for-profit students subsequently enrolling in community colleges and other sectors was supported by a 2018 National Bureau of Economic Research (NBER) paper, "*Where Do Students Go When For-Profit Colleges Lose Federal Aid?"* [1] The paper found that decreased enrollment at for-profit colleges following sanctions did not reduce aggregate educational attainment, as increases in enrollment at nearby public institutions offset those declines.

[1] http://www.nber.org/papers/w22967.pdf

Community colleges dispute the NPRM's suggestion that higher postsecondary costs are correlated with higher postsecondary quality. For example, despite their lower tuition and fees, community colleges spend more on instruction on average per full-time equivalent student[2] than the for-profit sector, and their certificate program completers have stronger earnings outcomes than that sector, according to 2015 GE data released by ED.[3] A 2018 paper published by the National Bureau of Economic Research echoed these findings relative to earnings and job placement.[4] It should be noted that the two sectors serve similar populations.

Our support for preventing unmanageable student debt aligns with many of our associations' policy priorities. Community colleges advocate institutional discretion to limit borrowing in instances where earnings of program graduates do not support certain levels of debt. Additionally, we support pro-rating loan limits to enrollment intensity, significantly enhancing loan counseling, and improving loan servicing.

Disclosure Requirements and the College Scorecard

AACC and ACCT strongly support data transparency across all higher education programs and agree with the NPRM that data on outcomes, debt, and earnings should not be limited to GE programs. In particular, it is appropriate to show earnings data for all higher education programs. Other program-level outcome data are also relevant, including the rate of borrowing, as only 12% of all community college students borrow.

Implementing the gainful employment regulation has been hugely burdensome for community colleges. In addition to the actual regulation, the department subsequently released 117 communications concerning GE reporting. Fortunately, the years of implementation, and the introduction of reporting under Subsidized Usage Limit Applies (SULA) has mitigated to some extent the work associated with GE reporting and disclosures. But any future GE regimen must be extremely sensitive to cost.

As pointed out in previous GE regulatory comments, we urge ED to recognize the complexity of the paths that community college and other, mostly non-traditional students, follow in their college experience. The program of study that a student initially selects is often not the one from which they ultimately graduate. Community college students often take courses in different areas as they cultivate their academic and career interests. This would make program outcomes unrepresentative if students' actual progress through a program, or changes in that program, are not tracked accurately. In this respect, ED needs to carefully think through its

[2] https://nces.ed.gov/programs/coe/pdf/coe_cue.pdf
[3] https://www.ed.gov/news/press-releases/education-department-releases-new-graduate-earnings-data-career-college-programs
[4] http://www.nber.org/papers/w22287.pdf

exclusive reliance upon SULA data to determine program outcomes.

We appreciate ED's proposal to provide select programmatic data without requiring additional institutional reporting. If these data are provided on the College Scorecard or its successor, colleges will likely be amenable to linking to that information from programmatic websites or other mechanisms, though many do not have a website for every program. However, most of the key Scorecard data are based on Title IV recipients. For community colleges, this means that information would be made available for a minority of their students, as fewer than four out of ten community colleges students receive any federal financial student aid. This minority of students is unrepresentative of the larger population of community college students—Title IV aid recipients are generally less affluent and likelier to have poorer outcomes than their better-resourced colleagues. For these reasons, we recommend that some notation be made of the nature of the cohort represented in the Scorecard data.

AACC and ACCT strongly support a student unit-record data system (URDS) to provide comprehensive information for accountability and transparency purposes. The absence of such a framework continues to be the Achilles heel of federal higher education policy and the Trump Administration should vigorously advocate for a URDS. The implications of not having a URDS are apparent in the proposed enhancement of the College Scorecard to include program level data.

Lacking a URDS, our associations request that the Administration develop a framework, consistent with the Family Educational Rights and Privacy Act (FERPA), that would authorize institutions to forward directly to the Department of Treasury student data for all programs so that earnings of program completers would be generated, while protecting the privacy of individuals' earnings. This information would be valuable to institutions in evaluating program efficacy and of great benefit to prospective students. This would also circumvent the shortcoming of limiting key earnings data to Title IV recipients.

Until a URDs system is established, we propose that some changes to the College Scorecard or its successor. Foremost, we urge ED to provide earnings information only for program completers. This differs from the current Scorecard, with earnings information encompassing both completers and non-completers. The fundamental purpose of the Scorecard's earnings data is to inform students of what they may expect to earn if they complete a given program. Including non-completers' earnings muddies those waters.

Another key element to include is whether a given program has a licensure requirement in the State in which the institution is located and whether it meets the requirement in any other States for which the institution has determined that the program enables graduates to become licensed or to work in their field. We firmly support this current GE disclosure provision and offer as the only change that there be a disclosure of the programmatic accreditation requirement in addition to a state licensure requirement.

Thank you for your consideration of these views. On behalf of the nation's community colleges, we look forward to continued work with the U.S. Department of Education to ensure quality postsecondary programs through limiting inappropriate borrowing and a robust system of information for prospective students, their families, and other stakeholders.

Sincerely,

Walter G. Bumphus
AACC President and CEO

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