AMERICAN ASSOCIATION OF COMMUNITY COLLEGES
LEAD ADVOCATE ADVANCE

June 20, 2023

AACC Comments Re: Docket ID ED–2023–OPE–0089

The American Association of Community Colleges is pleased to submit comments on the May 21, 2023, Notice of Proposed Rulemaking (NPRM) regarding Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Certification Procedures, Administrative Capability, and Ability to Benefit. AACC represents the nation's 1,038 community colleges and their students.

In the negotiated rulemaking sessions that preceded the issuance of this NPRM, community colleges were represented by Dr. Anne Kress and Dr. Will Durden. In the negotiating sessions, AACC lent its consensus to the Ability-to-Benefit regulations and, given that, will not comment on them here, other than to note that serving students who have not attained a high school diploma or G.E.D. remains a key element of the community college mission.

Overview

AACC supported the original gainful employment regulations that took effect in 2010 and then supported them again in 2014. Subsequently, community college officials expressed mixed feelings about the rules. On the positive side, they approved of the fact that the regulations eliminated from Title IV hundreds of programs that served students poorly, concentrated in the for-profit sector. The regulations also introduced into Title IV policies and concepts that have gained currency throughout higher education, but most importantly in the Executive Branch's administrative and public accountability framework – ideas that focus more precisely on student outcomes such as debt, earnings, and overall costs assumed by students. While these concepts do not capture the full impact of higher education programs, the additional information generated about education is positive for students and other stakeholders. As the following comments reflect, AACC generally supports, as it has consistently supported, a comprehensive presentation of the outcomes of higher education programs. The proposed rules will advance this.

On the other hand, the earlier gainful employment regulations proved to be hugely expensive and burdensome for institutions to implement. They were perhaps the single most costly set of new regulations imposed on colleges in decades, though their sheer complexity and extent defied a comprehensive tallying of their costs. Particularly nettlesome to campuses was the fact that the new reporting regimen mandated by the regulations failed to generate data on a widespread basis because so many GE cohorts were too small to produce metrics.

Colleges would have been willing to undertake these major new administrative efforts to get useful data, particularly earnings data, in return, but all too frequently this was not the case. A complicating factor was that the GE reporting requirements were not well-integrated into other Title IV reporting, and entirely new reporting software, or in some cases manual workarounds, had to be developed to comply with the requirements. This led to extreme campus frustration and anger. Many community college campuses have, at most, a single professional charged with all institutional research and reporting for both federal and state requirements, and they simply do not have the capacity to undertake major new regulatory burdens short of hiring new employees. As it promulgates new regulations, AACC urges the Department to ensure that any new reporting requirements are minimized to the maximum extent possible and justify the administrative costs they will entail. We sincerely hope that the more than 100 Dear Colleague communications issued to implement the last iteration of GE regulations will not be necessary in this instance.

In this regulatory package, ED is also advancing a variety of new administrative policies that give ED far more regulatory discretion and authority than it previously exerted. Many of these policies were not envisioned by Congress in the Higher Education Act (HEA) or related legislation. In the absence of an HEA reauthorization for nearly 15 years, ED apparently feels justified undertaking regulatory activity that, ideally, would have been more explicitly authorized by Congress. The actions that ED proposes to take via the regulations are obviously intended to ensure efficient program administration, as well as enhanced oversight, increased public transparency, and improved student services and support. As a combined package, they represent an extraordinary increase in institutional regulation. In each of these new domains, ED should ensure that the new costs imposed on colleges have an offsetting benefit. It should further ensure that the broad range of new standards and requirements being imposed on colleges will, in practice, positively impact student success.

668.13(e) – Supplemental Performance Measures

In this new paragraph to 34 CFR 668.13, ED proposes an extraordinarily broad – and vague – power to impose undefined performance measures on institutions that exceed the Department's statutory authority. We urge the elimination of this provision in the final rule.

As its name – Certification *Procedures* – implies, Sec. 668.13 spells out how the Secretary will certify institutions for Title IV participation that have met requirements imposed by other regulatory sections, including general institutional eligibility requirements of 34 CFR part 600 and the more specific requirements imposed by the rest of Subpart B and Subpart L. These include the program participation agreement and financial responsibility and administrative capability regulations, among others.

The wording of 668.13 and the overall regulatory structure are clear – the Secretary "certifies an institution to participate in Title IV" if it meets the requirements of the regulations mentioned above. The authority granted here is not conditional – it does not contain the word "may"—and, rather, is fundamentally ministerial in nature. Yet, the proposed new paragraph would upend this regulatory structure by granting the Secretary new discretionary authority to consider various performance factors in deciding whether to certify an institution.

In HEA Sec. 498, certification is based entirely on a determination that the institution has met requirements pertaining to eligibility, accreditation, financial responsibility, and administrative capability. As noted above, detailed requirements are laid out for each of these areas at the statutory and regulatory levels. None contain performance measures that even vaguely resemble what is proposed here. Indeed, the title of this proposed paragraph – *Supplementary* Performance Measures – is a misnomer. It would only be accurate if other arbitrarily applied performance measures of this sort were found elsewhere in the HEA or its regulations. There are not. Under the HEA, performance measures of the type found in this subsection are generally left to the accreditation agencies. For community colleges, state funding formulas often incorporate the types of measures that the Department is arrogating to itself here.

This regulatory package itself underscores the Department's lack of authority to do what it proposes here. The gainful employment regulations would render certain programs ineligible for Title IV if they fail either the debt-to-earnings or earnings premium metric in 2 out of 3 consecutive years. As the Department notes, it is only authorized by the HEA to impose these metrics on gainful employment programs – certificate programs at public and non-profit institutions and all programs at proprietary institutions. Yet the debt-to-earnings and earnings premium measures are included on the list of factors that the Secretary may consider in determining whether to grant certification to an institution. Thus, the Department is proposing a back-door method of establishing a power that elsewhere in this regulatory package it acknowledges it does not have the statutory authority to assume. And this new authority would be applied at the institutional – not programmatic – level, which obviously is of far greater consequence. As to the other factors on the list, none of them can arguably be said to relate to eligibility, accreditation, financial responsibility, and administrative capability.

Even if one were to assume that the Department had the statutory authority to impose this set of "supplementary" performance measures, the provision as proposed is unacceptably vague. As noted, the purpose of 668.13 is to lay out the procedures by which the Secretary certifies an institution that has met the statutory and regulatory requirements laid out in other sections. In contrast to the proposed measures, those requirements are detailed and exact. They clearly specify the characteristics an institution must possess, the agreements it must make, and the actions it must take to be Title IV eligible.

By contrast, the proposed addition to 668.13 simply lists several factors the Secretary "may" consider in determining whether to certify an institution. It does not delineate which of these factors should be considered and why, what specific benchmarks to apply, and other essential criteria. Because it is so vague, this provision amounts to nearly limitless Secretarial authority to deny certification to an institution. It has no basis in a generally prescriptive set of regulations that have tremendous consequences for institutions and students. Again, we urge its rejection.

668.14 – Program Participation Agreement

668.14(b)(26) – Maximum Length of Certain GE Programs

The Department is proposing to modify the current requirement capping the length of educational programs that are required for gainful employment in a recognized occupation (including state-licensed occupations, etc.). Under the proposed revision, the length of these programs would be limited to the minimum number of clock or credit hours required by the state in which the institution is located for that occupation. Alternatively, the minimum hours required by another state may apply if a majority of the students in the program either live, work, or intend to work in that other state. The current regulation stipulates that the Secretary would not consider a program to be overly long if it does not exceed the greater of 150% of the minimum number of hours required by the state in which the institution is located or the minimum number of hours required in an "adjacent" state.

We urge the Department to retain the current version of this paragraph. That provision strikes the right balance between the Department's legitimate interest in eliminating overly-long gainful employment programs and the need for institutions to have a reasonable degree of discretion in determining educational content. Both elements of the proposed revision are overly restrictive, especially when taken together.

In the preamble, the Department notes that some institutions offer programs that are longer than necessary because they are based on the higher minimum number of hours in an adjacent state, regardless of whether any students in the program actually lived, worked, or would work in that state (which could be far away from the institution despite being in an adjacent state). This is the justification for the changes made in the proposed revision that only allow an institution's program length to be based on another state's minimum hour requirement when it can document that a majority of the students in the program are connected to that state, as noted above.

However, the Department does not explain its reasoning for changing the in-state benchmark from 150% of the minimum required hours to 100% of those hours. The general (and laudable) policy behind the current provision and the proposed revision is the same: students should not be forced to exhaust more student aid eligibility in gainful employment programs that are longer than necessary to achieve their goals. But the Department does not explain why it now deems the 150% benchmark – which is longstanding policy – to be insufficient to effectuate this policy. The Department has not sufficiently justified its proposed change to the 150% benchmark, which reflects the fact that different educational programs are, and often should be, structured differently.

The proposed rule would render ineligible a program that enrolls 40% of its students from another state that requires 25% more hours than the institution's home state. This is an undesirable outcome that would be avoided under the current rule. For these reasons, the current requirement should remain in place.

In this context, which is equally relevant in other areas of this regulatory package, AACC reminds the Department that, almost by definition, community colleges are accountable to a complex, intersecting web of legislative, regulatory, and other public and private entities, including businesses, that ensure an ongoing level of educational quality and related consumer protections. In other words, federal regulation of institutional quality (which is essentially what GE represents), as well as administrative and financial aspects of colleges, is, to a large extent, duplicative of other activities. While the federal government has an essential role and statutory responsibility in this area, it, too, should dovetail with existing safeguards.

668.14(b)(32) – Institutional Determination of State Licensure Requirements

With the addition of this paragraph, the Department is proposing to add a requirement to the program participation agreement that the institution must determine, for every applicable Title IV program, for the state where the institution is located and each state where students enrolled in the program are located:

- Whether the program is programmatically accredited if required by a state or federal agency.
- Whether the program satisfies the prerequisites necessary to sit for a licensure or certification exam in the state.

Community colleges have a vested interest in ensuring that students in programs that prepare them for state-certified or licensed occupations are qualified upon completion of their program to sit for the relevant exams. For the most part, that is straightforward for the state in which the institution is located, as well as a limited number of adjacent states. This will cover the vast majority, if not all, of the students enrolled in an in-person program at a community college.

However, with the increased prominence of online education, more students are enrolling in programs from a broader array of states. Under current regulations, institutions are required by

669.43(a)(5)(v) to provide students and prospective students with a list of all states for which the institution has determined that a certain program meets the prerequisites for licensure or certification, a list of states for which the institution has determined a program does not meet such requirements, and a list of states for which the institution has not made such a determination. (Elsewhere in this regulatory package, the Department has proposed changing this requirement so that institutions provide one list that indicates the states for which a given program meets licensure and certification requirements and the states where it does not. It is unclear whether this means that this list must include all states and, therefore, an institutional determination one way or another for each state, or whether the list can only include those states for which an institution has made a determination, and by implication, any state not on that list is one where the institution has not made a determination. We urge the Department to maintain the current requirement, which provides the clearest information to students while avoiding an overly burdensome requirement on institutions, as discussed below.)

The current regulatory framework strikes the right balance between protecting students' interests and avoiding excessive administrative burden. Under this framework, institutions disclose what they know about the states for which their programs satisfy licensure and certification requirements to students, and students use that information in deciding which program to enroll in. The proposed requirement, which puts the onus on institutions to make the determination for every state in which students are located at the time of enrollment, ignores two basic realities that, when taken together, make this requirement unnecessarily burdensome on institutions without commensurate benefit to students.

First, as was stated during negotiated rulemaking, it will often be very difficult for an institution to determine whether its program meets another state's requirements. Many states don't make these requirements readily accessible, and officials are often unwilling or unable to tell an institution whether its program would qualify a student to sit for the state's licensure or certification exam. Faced with this difficulty in making the determination for a given state, the institution may have no other choice but to deny enrollment to a student from that state.

That would be an unfortunate outcome because of the second reality not reflected in the NPRM: students have many possible reasons for enrolling in a program even when they know that it does not meet the requirements of the state in which they are currently located or are uncertain. For example, the student may intend to relocate at some point to the institution's state or another state where the program meets the relevant requirements. Or the student may intend to receive the core education necessary through the institution's program and receive supplemental state-specific instruction in the state in which they are located. The proposed regulation removes this option for students.

In this context, we urge the Department to make available on its website the state licensure and certification requirements for Title IV-eligible programs that have large enrollments. This is a commonsense way of efficiently serving prospective students and institutions alike. The list would not have to be exhaustive (though that is what is expected of institutions) to be of great utility.

Subparagraph (iii) of this proposed subsection would require institutions to comply with generally applicable consumer protection laws as well as those that are specific to educational institutions in each of the states where their students are located. This requirement threatens to upend the years of work undertaken by states, institutions, and regional higher education compacts to establish state authorization reciprocity agreements that require states to uphold a set of common standards of consumer protection for those engaged in distance education. These reciprocity agreements developed organically to address regulatory complexities that imperiled the growth of distance education. And they were, in part, a response to regulatory activities taken by the Obama Administration.

With this proposal, the Department overlooks the fact that these agreements are entered into by the states voluntarily. In fact, all states except for California have chosen to do so. Furthermore, institutions also voluntarily decide to enter into these agreements. Through these voluntary actions, states and institutions proclaim that the consumer protection standards required by this agreement are sufficient to protect their citizens who are engaged in distance education with an institution in another state. With this proposal, the Department is substituting its judgement for that of the states. It thereby threatens to eradicate a framework that has increased higher education access for thousands of students. We recommend its elimination in the final rule.

668.16 – Standards of Administrative Capability

In this section, the Department proposes to bolster several already-existing requirements that institutions must meet to show they have the administrative capability to administer Title IV programs. Our comments focus on proposed new paragraphs 668.16(q) and (r).

Paragraph (q) would require institutions to offer "adequate career services," and paragraph (r) would require that, where they are required for completion of a program, students are offered geographically accessible clinical opportunities or externships within 45 days of the completion of coursework.

AACC strongly agrees that institutions should be doing both these things. However, they are completely unrelated to the purpose of this section of the regulations, which is to ensure that an institution is capable of adequately administering the Title IV programs. In the preamble, the

Department makes virtually no attempt to connect the provision of career services and clinical opportunities with administration of Title IV programs. The Department notes in the preamble that program reviews have revealed that some institutions lack the administrative capability "necessary to *successfully serve students*" (emphasis added). We share the goal of serving students successfully, but this is a wholly unwarranted and unauthorized broadening of the scope of this regulation.

We take particular exception to the prioritization of gainful employment programs in the assessment of adequate career services. Institutions offer a huge array of programs that prepare people for specific careers or jobs, but which are not captured under the gainful employment definition. This makes singling out gainful employment programs particularly misguided. In fact, it is frequently the case that students who do not enroll in a program directed toward a specific job or career need career counseling more than those who already have a more focused occupational objective. Having said that, the notion that the U.S. Department of Education would deny Title IV approval on the basis that, for example, the institution did not adequately counsel poetry majors about career options points to the inappropriateness of the provision in the first place.

The requirement about the provision of clinical opportunities or externships sounds reasonable on its face, and it certainly is a standard that, where applicable, is commonly met by community college programs. However, AACC does not support the federal government overlaying its own standard on what is fundamentally an institution's educational practice. It is a given that community colleges do everything possible to provide their students with the post-completion opportunities that are necessary for them to work in their chosen field. Furthermore, this aspect of educational programming is also, and appropriately, overseen by accreditors. This makes an additional federal standard entirely unnecessary, particularly given its clear lack of relevance to "administrative capability."

For these reasons, we urge the Department to eliminate proposed paragraphs 668.16(q) and (r) from the final rule.

668.171—Standards of Financial Responsibility

In this subsection of the Standards of Financial Responsibility, the NPRM would require that, to be considered financially responsible, public institutions would have to provide documentation from a government entity confirming that the institution is a public institution backed by the full faith and credit of that government entity. The Department is also proposing to apply financial responsibility standards to public institutions if certain discretionary and mandatory triggers are met.

It is unclear what problem the Department is attempting to solve by applying to public institutions the standards of financial responsibility and requiring them to obtain a document attesting that they are backed by the state's full faith and credit. There is no documented history of precipitous closure or financial collapse of community colleges that merits applying to them regulations designed for private and for-profit institutions. While obtaining a letter from states may seem like a routine administrative action, navigating public bureaucracies to confirm what has never been previously questioned may not always be pro forma, particularly in states where there is essentially no public bureaucracy overseeing the community college system. This would tend to be the case in states that are highly decentralized and have locally elected trustees. It is also conceivable that political considerations that have nothing to do with the institution's financial strength could lead to delays in securing the required documentation.

ED should eliminate new and unnecessary requirements for public institutions to obtain letters from states and the application of mandatory and discretionary financial responsibility triggers.

668.43 – Institutional and Programmatic Information

This section would amend the information that institutions are required to provide to students regarding whether their programs meet certification and licensure requirements in other states. It also establishes the requirement that institutions report the information necessary to populate the new disclosure website that the regulations establish. The first item and the policy issues related to increased disclosure are discussed elsewhere in these comments. Here, we comment on the data elements listed in this section that may be included on the disclosure website.

As a general rule, as ED determines a final list of required informational elements, we urge the Department to consider the reporting burden on institutions and use already available information to ED as much as possible.

We also strongly urge the Department to carefully consider the utility of the information provided to students, their parents, and others using this website to guide their educational decisions. We believe that some of the informational elements listed that may be part of the site have little such utility. In particular, the median loan debt and earnings of students that did not complete the program are of little value to those who naturally want to know what their situation will be if they complete the program. Providing this information for non-completers is "noise" that will only obscure what prospective students and others really want to know. We recommend focusing these data elements on completers only.

Finally, providing the entire cost of a program, including books, supplies, and equipment, will be difficult for community colleges to comply with. There are too many factors that may change quickly over time that will make any such estimate inaccurate, which is a disservice to the student. We suggest instead that institutions make a good-faith effort to provide the estimate.

Subpart Q—Financial Value Transparency

In a regulatory package containing several major alterations of federal higher education policy, Subpart Q is probably the most consequential. Building on the College Scorecard and Navigator and deriving from previous gainful employment regulations, Subpart Q creates a sweeping new framework for institutional reporting, federal disclosures, and program assessment.

AACC has long supported the creation of a comprehensive postsecondary education data system that would follow students into, through, and across institutions and subsequently provide their post-graduation earnings. Such a framework would instantaneously generate substantially greater accountability across all higher education. Unfortunately, at current there is no such system, and given the ban on a national student enrollment system, the Department lacks the ability to establish one. ED has therefore had to resort to a variety of workarounds to provide data that it thinks students, families, and other stakeholders require to make informed decisions about postsecondary education. The proposed disclosure mechanism is generally positive, with the caveats outlined below. Critically, the Department must ensure that new institutional expenditures are absolutely minimized, because regulatory costs are ultimately paid by students, either through higher tuition or reduced services.

The lack of a federal data framework incorporating all student enrollments means that virtually all of the key measures developed through Subpart Q and employed in other parts of the NPRM are limited to Title IV recipients—in fact, a "student" is defined in subsection 668.2 as a Title IV recipient. This limitation undermines the quality of the data that is generated about community colleges, since only 47.6% (NPSAS: 18-AC) of them receive Title IV aid. The unfortunate reality is that most colleges simply do not know the income backgrounds and other key information about non-Title IV-aided students. However, because most students who apply for federal aid tend to have relatively low incomes compared to other students, it must be inferred that they also are likelier to have poorer educational outcomes and fare less well in the post-completion job market than the relatively more affluent students. This is a stark, longstanding, and regrettable fact despite the increased earnings and equalizing dynamics that generally accrue to a community college education. But it also means that it is prudent to maintain an element of circumspection and humility about the relevance of the data generated.

In this section and the accompanying GE Section Q, ED is linking high-stakes policies to data that is so limited that its relevance and integrity must be questioned.

Subsection 668.402

Subsection 668.402 (b),(c)

AACC strongly supports the NPRM's debt-to-earnings rates and related standards. AACC's support derives from the longstanding community college ethos that students should generally be able to participate in postsecondary education without needing to borrow, because borrowing places a burden on students that fundamentally changes the terms of their education. Low community college tuition is manifested in the fact that only 15.3% of all community college students take out federal loans (NPSAS: 18-AC). And, even with all non-Title IV recipients being excluded from the D/E calculations, which means that none of them took out federal loans, the D/E ratios show that virtually all community college completers can manage their federal debts without financial hardship.

Again, the D/E frameworks reinforce the community college mission of providing high-quality, low-cost, and accessible education, while protecting students against unwarranted borrowing tied to programs with subpar outcomes. AACC continues to maintain that this approach is the appropriate policy for implementing the eligibility aspects of the GE statute, under which ED has complete discretion given the terse statute and lack of accompanying expressions of Congressional intent.

Subsection 668.402 (d),(e)

AACC does not support the proposed earnings premium measure. The association disagrees with the basic logic informing the earnings premium concept. The purpose of a particular workforce education program—presuming that all GE programs have that purpose, which is a tenuous connection to make since the relevant statute was drafted more than 50 years ago— is to increase the earnings of program participants from what they otherwise would have been. This is a reasonable goal and certainly one that the overwhelming majority of community college GE programs meet. In practice, this also means that the average earnings of program completers will almost always exceed those of the average high school graduates in the state aged 25 to 34.

However, AACC opposes the earnings premium concept because programs are not created to meet some abstract wage standard that may not be relevant in the particular circumstances of a given program offered by a given college. Furthermore, despite the Department's efforts to create a fair comparison between program completers and high school graduates, and its acknowledgement of some of the shortcomings of its methodology, it has failed to do so. Note the following:

- The economic, demographic, and even educational backgrounds (in terms of education received prior to high school graduation) of the students enrolled in the program may not match those of typical high school graduates.
- The ages of those completing a program may be significantly lower than the range proposed by ED; the median age of a community college credit student is now 23 (NPSAS: 18-AC).
- The local economy into which most program completers will enter may vary significantly compared to labor markets in other parts of the state, as ED has noted.
- Certain programs are offered in fields where earnings simply are low. Despite this, community college officials may have many good reasons to offer programs in these areas. The program may have a social value, it may be in demand in a given community despite the wages associated with it, and it may be one in which students who complete GE programs subsequently enroll in other programs at the institution that lead to further earnings enhancements.

In addition, as a general proposition, in evaluating the earnings impact of specific programs—particularly when it is tied to high-stakes outcomes such as program eligibility—it is preferable to employ an earnings differential, i.e., a pre- and post-program earnings comparison, so that the economic benefits accruing to students can be more objectively and fairly assessed. While this approach does require more, and more refined, data than ED's earnings premium, it is vastly superior to an arbitrary and rigid earnings standard. It can be inferred that ED chose not to propose this approach due to the barriers to implementing it. However, as the Department finalizes the regulations, it should develop a standard by which, based on adequate data, the Department allows a program to meet the earnings premium standard by doing a pre- and post-enrollment earnings comparison. AACC suggests a standard of 20% of previous earnings.

Furthermore, if the Department chooses to move forward with an earnings premium standard for GE eligibility and the accompanying disclosures, it should provide an option for institutions to meet the standard, based on ED's acknowledgement that:

> "[I]t may be more challenging for some programs serving students in economically disadvantaged locales to demonstrate that graduates surpass the earnings threshold when the earnings threshold reflects the median statewide earnings, including locales with higher earnings."

With this recognition, ED invites "public comments concerning the possible use of an established list, such as the list of persistent poverty counties compiled by the Economic Development Administration, to identify such locales, along with comments on what specific adjustments, if any, the Department should make to the earnings threshold to accommodate in a fair and data informed manner programs serving those populations."

Applying the location (i.e., county) of GE programs would more accurately capture the reality of the local economy, including earnings. Using an established list of persistent poverty counties compiled by the Economic Development Administration, mentioned by ED, is certainly a good source for identifying counties with suppressed earnings.

Therefore, regarding the EP metric only, community colleges propose the following methodology for determining whether a GE program fails or passes:

> For each year, if the GE program does not meet the earnings threshold of the EP metric, it would pass if the following condition was met:
>
> The program is located in one of the persistent poverty counties and the median earnings of program completers is higher than the adjusted median earnings, which is the state median earnings for high school graduates in the 25-34 age group adjusted down by 20 percent.

The rationale for this position is derived primarily from the Department of Labor's Employment and Training Administration which indicates that, according to a Congressional requirement, a county (or a county-level equivalent) is experiencing Persistent Poverty if their most recent poverty rate estimate, within the margin of error, equates to 20 percent, while also evidencing poverty rates of at least 20 percent in the 1990 and 2000 decennial censuses (i.e., 20 percent or greater poverty over the last 30 years).

Subsection 668.405

In subsection (a), the NPRM states that "In calculating the D/E rates and earnings premium measure for a program, the Secretary uses student enrollment, disbursement, and program data, or other data the institution is required to report to the Secretary to support its administration of, or participation in, the title IV, HEA programs." We take this to mean that no additional data will be required to be provided by institutions beyond that currently being reported through the Title IV structure. If this is not the case, ED has an obligation to explicitly state what will be required.

Subsection 668.408

As with subsection 668.405(a), it is imperative that additional administrative reporting requirements be avoided unless absolutely essential. Colleges appreciate the fact that in subsection (b)(2), the Department implicitly recognizes that institutions may, at times, face insuperable obstacles in providing all of the required information. Greater explication of how this would be employed by colleges would be helpful.

Subpart S—Gainful Employment

Subsection 668.602

If a GE program does not have a D/E or earnings premium calculation made for more than two years, the programmatic eligibility clock should restart. Programs and their students are constantly evolving, and most community college GE programs will be one year or shorter in length. Therefore, a cumulative evaluation period that could last as long as four years is not reasonable.

Despite the tremendous potential impact to community colleges of the gainful employment eligibility framework, AACC has no further comments on it at this time. Outside of the comments mentioned above and, more importantly, those related to the earnings premium metric, AACC supports the general GE eligibility framework.

We thank you for its attention to our comments. For more information, please contact David Baime, Senior Vice President for Government Relations.