



June 20, 2023

The Honorable Miguel Cardona
U.S. Department of Education
400 Maryland Avenue, SW
Washington, D.C. 20202

RE: Docket ID ED-2023-OPE-0089

Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB)

Dear Secretary Cardona:

In response to the Department of Education's May 19, 2023, notice of proposed rulemaking (NPRM) to make improvements to the areas of gainful employment (GE), financial value transparency, financial responsibility, administrative capability, certification procedures, and Ability to Benefit (ATB), I am pleased to provide comments on behalf of the Association of American Universities (AAU), an organization of America's leading research universities. Our members include 63 leading public and private research universities in the United States. AAU appreciates the opportunity to provide comments to the department on these proposed regulations.

A strong higher education system that is affordable and accessible to all students is vital to our country's success and prosperity. AAU members are committed to providing high-quality education that is affordable to all. In fact, according to College Insights, 57% of AAU graduates earn their degrees debt-free. In contrast, only slightly more than 40% of graduates of all other four-year nonprofit colleges and universities (both public and private) in the United States graduate debt-free. AAU graduates who do incur debt during their studies are also better able to repay it compared to their peers at other schools. According to the department, only 2.3% of AAU alumni default on their debt within three years of earning their undergraduate degrees; the average default rate for all nonprofit four-year institutions at three years after graduation is 6.3%.¹

AAU agrees with the department that more transparency on college costs and success rates is vital to ensuring that families and students have the most accurate information to make well-informed choices. Therefore, AAU has endorsed the College Transparency Act, which would provide such information at the student level and help families and students make an informed decision before making a substantial investment in higher education. AAU encourages the department to work with Congress to pass the [College Transparency Act](#).

In response to the NPRM, AAU has endorsed and supports the more detailed comments provided by the American Council on Education (ACE) and the larger higher education community. In these comments,

¹ <https://www.aau.edu/newsroom/barbaras-blog/setting-record-straight-affordability-and-student-debt>

however, we want to call out and bring to the department's attention some very specific concerns our members have about the NPRM's proposed financial value transparency and certification procedures.

Financial Value Transparency

AAU supports the department's intent to provide greater transparency and accountability for institutions of higher education and agrees that students should have access to information on the expected return on their investment in choosing a particular college and program of study. The NPRM proposes to develop a new framework to calculate measures of financial value of eligible programs and expands it to all higher education programs, not just non-degree programs or programs at for-profit colleges. Title VI eligible programs will also be subject to a debt-to-earnings and an earnings premiums calculation. The NPRM categorizes such programs based on those earnings metrics as "low-earning" or programs with "debt burdens." This information on the financial value of such programs will be provided to prospective students on a new public website administered by the department. The NPRM further mandates that students or prospective students acknowledge their knowledge of this information as a condition of receiving or continuing to receive federal Title IV financial aid.

The debt-to-earnings ratio compares the median earnings of graduates who received federal Title IV aid to the median annual payments on debt borrowed for the program. As described in the proposed rule, programs would "pass" if they can show that debt payments are no more than 8% of annual earnings or 20% of discretionary earnings. The earnings premium metric seeks to show that a graduate who received federal financial aid earns at least as much as a high school graduate in their state.

While AAU supports more transparency on college costs and student success, AAU has reservations with the expansion of reporting requirements to all programs² not just non-degree programs or programs at for-profit colleges. The expansion of these reporting requirements to all programs would greatly increase the number of staff and time required to accurately produce the data and be problematic for many institutions as it would redirect valuable resources away from students for this purpose. We also have concerns that the current wording in the proposal would allow the department to add new criteria to the proposed reporting requirements that could trigger even more potential burdens on institutions by issuing changes in the *Federal Register* with limited comment periods. AAU also has reservations on the use of debt-to-earnings and earnings premiums metrics for showing the true quality and value of a program. This data collection for all programs, along with the use of these calculation metrics, may not be the best method or use the right indicators to establish the value of postsecondary programs. For example, many programs in the arts and humanities, social work, counseling, and public health may not be accurately represented for their long-term value when measured over a three-year period versus over longer timeframes. Simply put, the quality of an academic program should not be measured solely by its "financial value." Further, the one-size-fits-all combination of the calculation metrics is not a meaningful measure of a program's financial value.

² Institutions of higher education currently report on at least 23 metrics. Additional proposed reporting that will be required under the NPRM includes (1) the student's total annual cost of attendance (COA); (2) total tuition and fees assessed to the student for the award year; (3) the student's residency tuition status by state or district; (4) the student's total annual allowance for books, supplies, and equipment from their COA; (5) the student's total annual allowance for housing and food from their COA; (6) the amount of institutional grants and scholarships disbursed to the student; (7) the amount of other state, Tribal, or private grants disbursed to the student; (8) the amount of any private education loans disbursed, including private education loans made by the institution; and (9) the total amount of institutional grants and scholarships provided for the student's entire enrollment in the program.

AAU also has reservations about the mandate for institutions to notify students or prospective students of the program's performance before the disbursement of Title IV financial aid with limited ability to correct any inaccuracies. AAU believes that institutions should have the ability to review and correct any program data errors produced by the proposed new reporting and calculation process to ensure the new debt-to-earnings and earnings premium rates are accurate before that information is provided. We recommend that institutions be provided with a transitional period to adjust to the new compliance requirements for their non-GE programs to ensure the new debt-to-earnings and earnings premium rates are accurate.

AAU supports the provisions in the proposed rule that allow for the usage of a six-digit Classification of Instructional Programs (CIP) code, increased accuracy of the data used, and the exclusion of Parent PLUS loans debt in debt-to-earnings calculations. We believe these provisions help ensure that the data used is accurate.

Certification Procedures

The Higher Education Act (HEA) specifies that each institution wanting to participate in Title IV student aid programs must have a current Program Participation Agreement (PPA). A PPA is a document in which the institution agrees to comply with the laws, regulations, and policies applicable to Title IV programs. The NPRM proposes several changes to the procedures for certifying institutions to participate in Title IV programs.

Specifically, the NPRM has the potential to change the state authorization requirements. Currently, many institutions satisfy state authorization requirements for program participation via the National Council for State Authorization Reciprocity Agreements (NC-SARA) that also require member institutions to agree to uniform consumer protection policies. States that participate in NC-SARA do so voluntarily and NC-SARA has provided consistent standards and consumer protections for students among its member states. Under the proposed rule, institutions would now be subject to additional state-specific consumer protection requirements; we are concerned that NC-SARA may no longer be sufficient to meet the requirements for a PPA. Specifically, institutions would be required to certify compliance with consumer protection laws related to closure, recruitment, and misrepresentation for the state in which the institution is located as well as each state in which enrolled students are located. We are concerned that this may add another layer of unnecessary requirements.


AAU supports the existing efforts of NC-SARA, to which 49 states currently belong, and believes that their current system is working well and is an adequate system to meet PPA requirements. AAU has concerns that the proposed rule would create additional barriers for institutions to offer distance education courses outside of the state, particularly less-well-resourced institutions who may not be able to maintain ongoing compliance with laws across multiple states. AAU also has concerns that the purpose and important benefit of NC-SARA is effectively weakened by the proposed rule. AAU agrees with other comments to encourage the department to work with NC-SARA to strengthen consumer protection law requirements in reciprocity agreements. Overall, we do not believe that the added value for this proposed change is justified given the anticipated costs and potential for decreasing access to distance education programs.

In addition, the NPRM adds compliance obligations related to professional licensure programs. Currently, institutions must identify and disclose to students a list of states for which a particular

program meets state licensure requirements, those where the program does not, and those for which the institution has not determined if the program does meet the states requirements or not. Under the proposed rule, simply disclosing this information would be insufficient to ensure compliance for students to remain eligible for using Title IV financial aid for these programs. Instead, institutions would be required to certify to the department via their PPAs that each licensure program satisfies all educational prerequisites for each state where enrolled students are located. AAU has concerns that this proposed change would create significant challenges for institutions to ensure compliance with various state licensure requirements across multiple states and informing students. AAU also agrees with ACE's comments raising concerns about compliance when an institution is not able to determine if state licensure requirements are met where the student initially enrolled. AAU requests clarification on how the department would define "initially enrolled" to provide institutions with guidance for appropriate disclosures to students.

Again, AAU appreciates the opportunity to comment on these proposed regulations and would welcome the opportunity to answer any questions regarding concerns expressed in our comments above. We look forward to continuing to work with the department on our mutual interests in ensuring that college is affordable and accessible to all students and in providing more transparency and accountability in higher education.

Sincerely,

A handwritten signature in blue ink that reads "Barbara R. Snyder". The signature is fluid and cursive, with the first name "Barbara" and last name "Snyder" clearly legible.

Barbara R. Snyder
President