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June 20, 2023

The Honorable Nasser H. Paydar, Ph.D.
Assistant Secretary for Postsecondary Education
U.S. Department of Education

Submitted electronically

Docket ID #: ED-2023-OPE-0089

Dear Assistant Secretary Paydar,

Thank you for the opportunity to provide public comments regarding the U.S. Department of Education's (the Department) proposed gainful employment rule and other proposals to enhance transparency and accountability in higher education (Docket ID ED–2023–OPE–0089). UnidosUS, previously known as NCLR (National Council of La Raza), is the nation's largest Hispanic civil rights and advocacy organization. Through its unique combination of expert research, advocacy, programs, and an Affiliate Network of nearly 300 community-based organizations across the United States and Puerto Rico, UnidosUS simultaneously challenges the social, economic, and political barriers at the national and local levels.

As a leading advocate on education policy encompassing the perspectives of Latinos in higher education, we write to express our support for the Department's proposal to strengthen gainful employment requirements and new transparency measures that would protect students and improve outcomes in the higher education sector.

We remain deeply concerned about institutions receiving Title IV funds that rely on charging high tuition, while enrolling students in low-value programs, and leaving them with limited earning potential. This is a civil rights issue as Black and Latino students are more likely to be targeted by, and enrolled in, low-quality programs that often lure students in with false promises and then leave them with unaffordable debt and worthless degrees. Latinos tend to be the first in their family to go to college, and it is common for them to be older, have children, come from low-income backgrounds, and enroll part-time. This makes them especially vulnerable to the promises made by predatory colleges to provide flexible schedules and gainful employment after graduation or program completion. The proposed gainful employment (GE) rule is a key way to help ensure quality in the higher education sector.

In the 2019-2020 school year, over 300,000 Latino and Black students were found to be enrolled in institutions where more than half of career education programs had previously failed or were in jeopardy of failing the 2014 GE rule. If kept in effect, the 2014 GE rule would have prevented these programs from harming communities of color and other underrepresented students by incentivizing them to improve or eliminating their ability to receive federal student aid if they don't.

This data, coupled with the experiences of many students and borrowers, make it critical for the Department to strengthen protections, as well as enhance transparency for programs providing relatively low earnings potential even as students may take on substantial debt to pay for them.

Gainful Employment and Financial Value Transparency

We support the Department's strengthened gainful employment rule, which applies to all programs at for-profit colleges and nondegree programs at public and private nonprofit colleges, that would establish baseline standards to ensure that programs subject to the rule lead to gainful employment in a recognized occupation.

Programs in the for-profit sector often promise students well-paying jobs right after graduation, but more than half of those institutions leave many of their graduates earning less than high school graduates. A common argument from advocates of for-profit institutions is that the demographics of their students are what's at play in their failing of the GE rule—that it's the racial wage discrimination their students face in the labor market that makes it more difficult for their graduates to earn enough to afford to repay their loans.

While it is certainly true that racial income disparities exist in the labor market, we also note that data show that Hispanic-Serving Institutions (HSIs) actually provide the most economic mobility for their students.[*] And other research points to the fact that there is little correlation between the share of Black and Hispanic students and failing a high school earnings metric, and that it has much more to do with the sector, level, and size of the institution.[†]

In fact, the Department's data show that a vast majority of programs at Minority Serving Institutions, Historically Black Colleges and Universities, and tribal colleges would pass the debt-to-earnings and earnings premium tests.[‡]

Regarding the Department's request for feedback on the possibility of allowing programs in severely economically disadvantaged areas a safe harbor if they fail to meet the earnings premium measure, we recommend that gainful employment programs in extremely high-poverty counties—those that have the designation of Persistent Poverty Counties[§]—be afforded the opportunity to appeal a failure of the earnings premium measure only (not debt-to-earnings metric). We would also recommend that this safe harbor be provided only for institutions that are located within Persistent Poverty Counties as of the effective date of the regulations, and that institutions claiming this safe harbor provide documentation

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[*] Itzkowitz, Michael, "Out With the Old, In With the New: Rating Higher Ed by Economic Mobility," Third Way, January 2022, https://www.thirdway.org/report/out-with-the-old-in-with-the-new-rating-higher-ed-by-economic-mobility.

[†] Cellini, Stephanie Riegg, and Nicholas Turner, "Gainfully Employed? Assessing the Employment and Earnings of For-Profit College Students Using Administrative Data," *The Journal of Human Resources*, February 1, 2018, https://jhr.uwpress.org/content/early/2018/01/31/jhr.54.2.1016.8302R1.abstract; "Gainful Employment: A Civil Rights Perspective," The Leadership Conference Education Fund, October 1, 2019, https://www.nclc.org/resources/gainful-employment-a-civil-rights-perspective/; Chetty, Raj, John Friedman, Emmanual Saez, Nicholas Turner, and Danny Yagan, "Mobility Report Cards: The Role of Colleges in Intergenerational Mobility," National Bureau of Economic Research, Working Paper # 23618, December 2017, https://opportunityinsights.org/paper/mobilityreportcards/; 79 Fed. Reg. 65039–65057; and 88 Fed. Reg. 32430–32433. The Department also highlighted the fact that, while programs failing the earnings premium measure have a higher share of women graduates and people of color, other programs with similar race and gender breakdowns have much higher passing rates. 88 Fed. Reg. 32432.

[‡] Caldwell, Tia, "New Data Confirms MSIs Would be Minimally Affected by Gainful Employment Even With New Transparency Requirements," June 2023, https://www.newamerica.org/education-policy/edcentral/new-data-msis-gainful-employment/.

[§] A definition established by lawmakers in the American Recovery and Reinvestment Act of 2009 as reflecting counties that have had poverty rates of 20 percent or more for at least three decades.

showing that at least half of regular enrolled students live in that county. This safe harbor will appropriately recognize the challenges such institutions may face in meeting a threshold that may be difficult to reach within their specific local labor market context.

Non-GE Program Financial Value Transparency and Disclosures: While we remain concerned about predatory and wasteful practices most seen in the for-profit sector, we are also concerned about the rise of for-profit-style practices—including the rise of incentive-based compensation for online program managers, as well as aggressive marketing of high cost online graduate programs—at nonprofit private and public institutions.

Students and families are currently expected to make one of the most important, expensive decisions of their lives with little information. The proposed rules would increase transparency on student debt, college costs, and postgraduation earnings for students attending all types of undergraduate and graduate programs by requiring students to acknowledge they have seen key borrowing and earnings information before receiving Federal funds to enroll in programs that typically leave graduates with unaffordable debt.

We support the Department's proposal that would provide public transparency on institutions and programs via clear disclosures to students across all sectors and actionable attestations (for high-debt programs outside the gainful employment sectors) to ensure students received the information about the program they are considering.[*] By requiring schools to send students the information, and ensuring students attest to having received it, ED will truly be able to meet students where they are and help them to make informed decisions.

We also acknowledge that students receive non-economic benefits from pursuing a higher education (and may be choosing to pursue higher education for reasons not limited to economic benefits), but students should still be made aware of the costs and economic outcomes of the programs that they are considering, including whether they would be financially better or worse off.

Not only would the increased financial value transparency help students and families make more informed decisions about their postsecondary options, but it would also help institutions identify areas for improvement, such as supporting students' retention and completion, reducing prices, improving program quality, and building stronger career connections.

Administrative Capability

Career Services. We support the Department's proposal to require that institutions provide adequate career services to their students, assessed in part by the share of students in career-training programs, the number of career services staff, the promises the institution made to offer career services, and employer partnerships with the institution. Students name employment outcomes as one of the most

[*] Robertson, Brett, and Beth Stein, "Consumer Information in Higher Education," The Institute for College Access and Success, April 2019, https://ticas.org/files/pub_files/consumer_information_in_higher_education.pdf.

critical reasons for attending college;[*] and institutions and employers alike have identified stronger preparation and career services (including internships and apprenticeships) as critical to improving students' prospective employment outcomes.[†] Yet some institutions leave students on their own in navigating the job search or making employer connections. This would make investments in career services an expectation at institutions across the country so that students feel better prepared making the transition between postsecondary education and employment.

Financial Aid Offers: Many Latino students are eligible for and depend on financial aid to pursue higher education. In 2016, 48% of Latino students had a zero Expected Financial Contribution (EFC) compared to 30% of White students.[‡] Even so, many with the greatest need won't receive grants, scholarships, and loans because they must overcome a complex financial aid process that is not always clear or accessible, especially for first-generation students and limited-English proficient students and families. Standardizing financial aid award letters and terminology would help students and families understand and easily compare financial aid offers and make informed decisions in a timely manner.
As the Government Accountability Office noted in a recent report, institutions' failure to clearly state the costs of college is a widespread problem; 91 percent of colleges studied either do not include a net price, or understate the net price in ways that make the college look more affordable than it is, on their financial aid offers.[§] More than half do not provide the total cost of attendance, including both direct and indirect costs.[**] Other research has identified many of the same problems.[††]

We support the Department's proposal that would require institutions to streamline their current financial aid communications to their prospective and enrolled students by requiring institutions to list out the cost of attendance of the institution (with each component separately listed, along with a total); separate out grants from loans from other types of aid, and clearly note which types must be earned or repaid; include a net price with a common definition of the cost of attendance minus grant/scholarship aid; and provide clear instructions for next steps.

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[*] Fishman, Rachel, "2015 College Decisions Survey Part I: Deciding to Go to College," New America, May 2015, https://static.newamerica.org/attachments/3248-deciding-to-go-to-college/CollegeDecisions_PartI.148dcab30a0e414ea2a52f0d8fb04e7b.pdf; and "Strada-Gallup Education Survey (2020-2021)," Strada Education Foundation, https://stradaeducation.org/research-education-survey/.

[†] Boyer, John, "How Liberal Arts Colleges Can Make Career Services a Priority," Higher Ed Dive, June 5, 2023, https://www.highereddive.com/news/liberal-arts-college-career-services-john-boyer/651959/; and Finley, Ashley, "How College Contributes to Workforce Success: Employer Views on What Matters Most," Association of American College and Universities, https://www.aacu.org/research/how-college-contributes-to-workforce-success.

[‡] Kelchen, Robert, "Trends in Zero EFC Receipt," May 2018, https://robertkelchen.com/2018/05/24/trends-in-zero-efc-receipt/.

[§] "Financial Aid Offers: Action Needed to Improve Information on College Costs and Student Aid," U.S. Government Accountability Office, GAO-23-104708, November 2022, https://www.gao.gov/assets/gao-23-104708.pdf.

[**] Ibid.

[††] Burd, Stephen, Rachel Fishman, Laura Keane, Julie Habbert, Ben Barrett, Kim Dancy, Sophie Nguyen, and Brendan Williams, "Decoding the Cost of College: The Case for Transparent Financial Aid Award Letters," New America and uAspire, June 5, 2018, https://www.newamerica.org/education-policy/policy-papers/decoding-cost-college/.

<u>Certification Procedures:</u>

Transcript Withholding: We appreciate and support the Department's expanded proposal to prohibit transcript withholding or take any other negative action against a student related to a balance owed by the student that resulted from an error in the institution's administration of the title IV, HEA programs, returns of funds under the Return of Title IV Funds process, or any fraud or misconduct by the institution or its personnel. Colleges should be required to transcript every credit Title IV has paid for. When institutions fail to do so, they deprive students of the credits they've earned and diminish the value of the Title IV programs.

Thank you for your work to improve outcomes in the higher education sector, particularly for underserved students and student loan borrowers. We appreciate your consideration of our comments. Please contact Roxanne Garza, rgarza@unidosus.org, with any further questions.

Sincerely,

Roxanne Garza
Senior Policy Advisor, Education Policy Project
UnidosUS