January 7, 2019

Director of the Information Collection Clearance Division
U.S. Department of Education,
550 12th Street SW, PCP, Room 9086
Washington, DC 20202-0023.

Re: Gainful Employment Disclosure Template, Docket ID number ED-2018-ICCD-0120

Submitted electronically via: http://regulations.gov

To Whom It May Concern:

As 53 organizations representing and advocating for students, families, taxpayers, veterans and service members, we write to express our opposition to further efforts to undermine the Gainful Employment regulation (GE). The gainful employment rule does not simply require disclosure however, it defines the longstanding statutory requirement that career education programs "*prepare* students for gainful employment in a recognized occupation." Data shows that more than 350,000 students graduated from the worst-performing programs, with nearly $7.5 billion in student debt they are unlikely to be able to repay. [1] Yet the Department now proposes to further limit access to information critical for students, families and other consumers to make informed decisions about enrollment in higher education programs. We believe that the Department of Education's (Department) proposed changes to the disclosure template requirements set out in their request for comment will deprive students and taxpayers of valuable information that is easily understood, is comparable across institutions, and has already undergone rigorous consumer testing. The Department's proposal to go from eight required categories of disclosure down to only three, with average debt, job placement rates, and on-time graduation rates among the disclosure categories proposed for removal, would leave prospective students woefully uninformed about the quality of programs and the likely outcomes they could expect when considering enrolling.

The proposed changes run counter to the intent of GE

The Higher Education Act requires that in order to be eligible to receive federal loans and grants, career education programs must provide ''a program of training to prepare students for gainful employment in a recognized profession.'' [2] The 2014 gainful employment regulation defined how an institution demonstrates that it is meeting this requirement and established both an accountability and a transparency framework.[3]

[1] How Much Did Students Borrow to Attend the Worst-Performing Career Education Programs? The Need for a Strong Gainful Employment Rule, The Institute for College Access & Success, August 22, 2018, https://ticas.org/sites/default/files/pub_files/ge_total_debt_fact_sheet.pdf.
[2] 20 U.S.C. 1088(b).
[3] 79 FR 64,890 – 65,103, https://ifap.ed.gov/fregisters/attachments/FR103114Final.pdf.

The Department articulated three laudable objectives with their transparency framework: (1) provide students and families the information they need to make an informed decision when choosing a school and program, (2) provide the public with information to better safeguard federal dollars, and (3) provide institutions with information to allow them to improve their programs. [4] To accomplish these objectives, it is imperative that the Department make sure that students, families, the public, and institutions receive a thorough accounting of a program's most important outcome indicators. Removing relevant information from the disclosures runs counter to the statutory intent that career education programs prepare students for gainful employment in a recognized occupation and the Department's own stated transparency objectives in the GE regulation.

The proposed changes contradict previous Department statements

The Department's stated goal in their August 2018 notice of proposed rulemaking was to "improve transparency and inform student enrollment decisions through a market-based accountability system." The Department asserted that debt-to-earnings metrics were too complicated to disclose to students and that instead "it is more useful to students to publish actual median earnings and debt data." [5]

If it is the position of the Department that students should have access to median earnings and median debt data, it is unclear why the Department now seeks to remove precisely these metrics from the template. Market-based accountability is only possible in conditions where all participants have the relevant information needed to make an informed decision. Removing this information from the disclosures is wholly inconsistent with previous Department statements and contrary to a system of market-based accountability.

Disclosure changes

The gainful employment regulation gives the Department "flexibility to tailor the disclosure in a way that will be most useful to students and minimize burden to institutions." In January of 2018 the Department removed average earnings of students, the costs of room and board and percent of students who are borrowers from the disclosure template. The current proposal further

[4] 79 FR 64,890. "The transparency framework will establish reporting and disclosure requirements that increase the transparency of student outcomes of GE programs so that students, prospective students, and their families have accurate and comparable information to help them make informed decisions about where to invest their time and money in pursuit of a postsecondary degree or credential. Further, this information will provide the public, taxpayers, and the Government with relevant information to better safeguard the Federal investment in these programs. Finally, the transparency framework will provide institutions with meaningful information that they can use to improve student outcomes in these programs."
https://ifap.ed.gov/fregisters/attachments/FR103114Final.pdf

[5] Gainful Employment Notice of Proposed Rulemaking. 83 FR 40167. Pp. 40,174 and 40,168.
https://www.federalregister.gov/documents/2018/08/14/2018-17531/program-integrity-gainful-employment
NOTE: While we continue to disagree with the assertion about the limited usefulness of the debt-to-earnings ratio, we note that disclosures of earnings data to the College Scorecard has been associated with increased applications to higher median earning colleges, at least from higher-income high school students.

proposes to eliminate from the template the percent of students graduating on time, average debt, average loan payment, job placement rates and the fields in which former students are employed. The result is a disclosure template with just three remaining data points, and no information that would actually inform prospective students and parents with regard to the potential earnings or expected debt that a student could expect to incur from a particular program. See Table 1 below.

Table 1: Comparison of the 2017, 2018, and proposed 2019 disclosure template

	2017 Template	2018 Template	2019 Template (proposed)
Program Length	YES	YES	YES
Percent of students graduating on time	YES	YES	NO
Program Costs: Tuition, fees, and supplies	YES	YES	YES
Program costs: Room and board	YES	NO	NO
Percent of students who borrow money	YES	NO	NO
Average graduate debt	YES	YES	NO
Average monthly loan payment	YES	YES	NO
Average earnings of graduates	YES	NO	NO
Job placement rates	YES	YES	NO
Does the program meet licensure requirements	YES	YES	YES
Fields students got jobs in	NO	YES	NO

These disclosures would not help students make decisions

A recent analysis illustrates a few of the many instances where programs of the same type in the same area, serving similar student populations, have graduates with very different debt and earnings outcomes.[6] Consider two schools in El Paso Texas that offer a Medical and Clinical Assistant program and serve demographically similar student populations. Graduates of Pima Medical Institute earned an average of $21,669 while graduates of Southwest University earned an average of just $15,269. Pima graduates owed an average of $7,495 while Southwest University graduates owed an average of $11,572.

[6] The Institute for College Access & Success. Examples of Nearby Career Education Programs with Very Different Outcomes, September 10, 2018, https://ticas.org/sites/default/files/u159/ge_comparisons_factsheet_910.pdf.

Some colleges routinely leave students with debts they cannot afford to repay. But even as the Department is eliminating accountability for these programs, it is also denying students basic information on colleges' earnings and debts. A student deciding between these two El Paso schools offering the same program is entitled to know when one program's graduates have both 42 percent higher average earnings and 35 percent lower debt. Removing first average earnings in 2018, and now in proposing to remove average debt disclosures, means that potential students deciding between these two programs would be making the choice blind. While consumer testing might demonstrate that the remaining three required elements of the disclosure template are more helpful to students than no disclosures at all, it is difficult to imagine that consumer testing of the 2017 template compared to the 2019 template would favor the sharply limited disclosures the Department now proposes.

Disclosures alone do not provide sufficient accountability, but they help

It must be emphasized that disclosures alone do not represent a sufficient accountability regime. Workable accountability measures are necessary to ensure that career education programs successfully prepare students for gainful employment in a recognized occupation, and to protect students from consistently poorly performing programs. While certain conditions may increase the ability of information disclosure to improve consumer understanding and/or alter consumer behavior, disclosures alone cannot protect students and taxpayers from abusive or exploitative practices.[7]

The existing gainful employment rule, which removes student aid eligibility from career education programs that consistently fail the debt-to-earnings metric, continues to serve as a critical benchmark that identifies and sanctions programs that are not serving students or taxpayers well. Comprehensive and well-designed disclosures that include the relevant information that a prospective student needs to make consequential life decisions are a necessary, although not sufficient, tool.

We urge the Department to restore all of the previously existing data fields (as seen in Table 1, 2017 template) to the gainful employment disclosure template. The publication of the first round of gainful employment rates clearly demonstrated that career education programs vary widely in terms of student outcomes.[8] Some programs represent good investments for students, with graduates largely able to successfully find gainful employment. However, some programs are by

[7] Kristen Blagg, Matthew M. Chingos, Claire Graces, Anna Nicotera, and Lauren Shaw, "Rethinking Consumer Information in Higher Education," Urban Institute: Washington, D.C. (2017), https://urbn.is/2N7UnRP; Paula J. Dalley, "The Use and Misuse of Disclosure As a Regulatory System," Florida State University Law Review 34, issue 4 (2007): 113-19, https://ir.law.fsu.edu/cgi/viewcontent.cgi?article=1160&context=lr; Debra Pogrund Stark, Jessica M. Choplin, and Mark A. LeBoeuf "Ineffective in Any Form: How Confirmation Bias and Distractions Undermine Improved Home-Loan Disclosures," The Yale Law Journal 122 (2013): 377, https://bit.ly/2CTWMuH; U.S. Department of Housing and Urban Development and U.S. Department of Treasury, "Curbing Predatory Home Mortgage Lending: A Joint Report," (2000), https://archives.hud.gov/reports/treasrpt.pdf; George Loewenstein, Cass Sunstein, and Russell Golman, "Disclosure: Psychology Changes Everything," Annual Review of Economics 6 (2014): 391-419, https://www.cmu.edu/dietrich/sds/docs/loewenstein/DisclosureChgsEverything.pdf.
[8] Gainful Employment Debt-to-Earnings data, January 2017. https://studentaid.ed.gov/sa/sites/default/files/GE-DMYR-2015-Final-Rates.xls

and large poor investments for students, offering a high level of debt and poor career prospects. As students and taxpayers negotiate the increasingly complex decisions regarding how to invest time and resources in higher education programs, they are owed the sunshine offered by the existing disclosure requirements.

Sincerely,

AFL-CIO
American Federation of Teachers
Americans for Financial Reform
Association of Young Americans (AYA)
Center for Responsible Lending
Children's Advocacy Institute
CLASP
Consumer Action
Consumer Advocacy and Protection Society (CAPS)
Consumer Federation of California
Democrats for Education Reform
Demos
East Bay Community Law Center, Consumer Justice Clinic
Economic Mobility Pathways (EMPath)
The Education Trust
Generation Progress
Government Accountability Project
Higher Education Loan Coalition
Hildreth Institute
Housing and Economic Rights Advocates
The Institute for College Access & Success (TICAS)
Legal Aid Society of San Bernardino
Legal Services NYC
Maryland Consumer Rights Coalition
NAACP
National Association for College Admission Counseling
National Association of Consumer Bankruptcy Attorneys (NACBA)
National Association of Consumer Advocates
National Center for Law and Economic Justice
National Consumer Law Center (on behalf of its low-income clients)
National Consumers League
National Education Association
New America Higher Education Initiative
New Yorkers for Responsible Lending
Partners for College Affordability and Public Trust
PHENOM (Public Higher Education Network of Massachusetts)
Project on Predatory Student Lending, Legal Services Center of Harvard Law School
Public Citizen

Public Good Law Center
Public Law Center
Student Action
Student Debt Crisis
Student Veterans of America
U.S. Public Interest Research Group (PIRG)
UnidosUS
United States Student Association
Urban Assembly
Veterans Education Success
Veterans for Common Sense
Vietnam Veterans of America
Women Employed
Woodstock Institute
Young Invincibles