

June 20, 2023

The Honorable Miguel Cardona
Secretary
U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Re: Docket ID ED-2023-OPE-0089

Dear Secretary Cardona:

Thank you for the opportunity to provide a response to the Notice of Proposed Rulemaking (NPRM) regarding Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Certification Procedures, Administrative Capability, and Ability to Benefit on behalf of the Association of Community College Trustees. The issues covered here are crucial to community colleges as open access public institutions offering degrees and certificates as well as credit and non-credit education and workforce development.

ACCT is a non-profit educational organization of governing boards, representing more than 6,500 elected and appointed trustees who govern over 1,200 community, technical, and junior colleges in the United States and beyond. Trustees have the fiduciary responsibility of their institution and responsibility for hiring the college leadership. Further, trustees are leaders in their community and are concerned with the health of the community college sector, both in terms of finances and student success.

ACCT has joined letters from the American Council on Education, issuing comprehensive comments on this NPRM. Furthermore, ACCT joined a letter organized by the National Skills Coalition commenting on the value and drawbacks of an earnings premium. In addition to these two letters, ACCT submits for comment this additional feedback.

Financial Value Transparency

As an overarching principle, ACCT supports consumer information for students and strives to support our community colleges in providing the best possible education and training programs. Creating a new website will allow students to explore these options. ACCT encourages the Department to conduct user testing on this website before it launches. Further, ACCT encourages the Department to explore the feasibility of and possible advantages of linking this website with the College Scorecard as it is important for students to have a comprehensive view of the programs and colleges which they may be considering for their education.

However, ACCT does ask the Department to track the institutional burden to report across all programs given as it is a dramatic increase from the previous Gainful Employment rule. Not only are degree programs now included, but so too are non-degree programs with few to no student loan borrowers.

On the topic of determination and notification, ACCT requests a clear timeline for institutions on when determination alerts will be issued. Institutions will need ample time to prepare notifications to students if they are required, especially the first time an institution must issue a notice. The extension from a 30-day window to a 12-month window for re-enrolling students is appreciated as it will help relieve administrative burden.

Gainful Employment

Earnings Premium

ACCT joined the previously mentioned letter with the National Skills Coalition outlining benefits and drawbacks of an earnings premium measure that uses an earnings floor as part of the gainful employment metric. While community colleges strive to have their students achieve higher earning outcomes, the low wages in some fields are beyond the control of the college and are related to a larger societal question of how people in professions necessary in our communities are compensated. These include roles in fields such as medicine, dentistry, and childcare that are also more likely to be held by women.

Further, the Department should consider the wage disparities across regions within states, particularly those with large urban and rural regions, or the states containing the 47 localities, according to the Economic Policy Institute Minimum Wage Tracker, that have a higher minimum wage than the state minimum wage. For example, in Florida the earnings data from the South Florida region may greatly skew the state average and place unrealistic economics premium for areas in the panhandle. Whereas using regional earnings data may be a more accurate picture.

Debt to Earnings

ACCT concurs with the need to have a Gainful Employment rule that prevents students from entering into levels of debt that cannot be covered by their chosen field. However, given that few community college students in Gainful Employment programs actually borrow, ACCT strongly urges the Department of Education to institute a minimum threshold for percentage of borrowers in a program before that program is required to meet the debt to earnings measure in order to maintain Title IV aid eligibility.

This minimum could be lower than previous iterations so that fewer programs are exempt, but ACCT strongly suggests that programs with only a few borrowers should not be subject to this metric. For example, a program with a small percentage of borrowers overall, who then do not meet the debt to earnings ratio, would jeopardize the entire program from Pell Grant eligibility. The threshold could be as low as 25 percent of students in a program who are borrowers, rather than the median debt of zero as used previously. Instituting this type of measure will still provide protection for students and taxpayers for programs where borrowing is common or the norm, without burdening institutions to meet requirements for programs where only a small handful of their students are borrowers. Further, the addition of the earnings premium measure will create a second level of accountability for those using other types of federal financial aid.

Appeals Process

ACCT strongly urges the Department to revisit the appeals process included in this draft rule during the final drafting. Absent from the proposed rule is a due process for institutions to appeal any determination that they have failed one or both of the two metrics proposed. While there is an appeals process present, the appeal as it is currently written would only be for perceived inaccuracies from the Department. It would not provide alternative data that can demonstrate the value of the program in question. During the 2014 GE rule, an appeals process including an alternative earnings measure was included. ACCT asks the Department to consider returning to a similar process and consider other factors that an institution may present.

For the earnings premium in particular, an institution may show the Department the value that a specific program may add to participants' lives through a broader measure of a higher quality job, such as with better benefits package or more stable and predictable hours. Given that industries may have similar wages but not all include tips or benefits, it is crucial that institutions have the opportunity to further demonstrate a program's worth. Additionally, an institution should be able to present the prevalent wage for specific fields and industries, which is something beyond the college's control, to pass the earnings premium metric.

Certification Procedures

ACCT encourages the Department to closely examine the impact of the GE clock hour limitations on programs with students who study or work across state lines to ensure the new, lower limitation on the maximum clock hours as a percentage of state licensure requirement does not limit the ability of students to study out of state or to work in a nearby state after completing their program in state.

Financial Responsibility

As part of this NPRM, the financial responsibility rule is amended to require a public community college to offer documentation from the state that specifically confirms that the institution has full faith and credit to the Department of Education as to their financial status. It is unclear why this language, which seems duplicative and overtly prescriptive, is necessary for public institutions.

Administrative Capability

Financial Aid Counseling

The proposed communications for financial aid requiring differentiation of financial aid types for students is a positive step for students and their understanding of how affordable a given program is. However, as part of this process, institutions would be required to advise students and families to accept the most beneficial types of financial assistance available to them. It must be made clear to families that financial aid advisors are not the same as financial advisors and can only speak to the types of aid offered through the institution.

Career Services

Career services are an important support that community colleges offer. Including it as part of administrative capability makes sense; however, the lack of definition for “adequate” is concerning for institutions who want to ensure they are meeting the requirement. ACCT encourages the Department to more clearly define how this term will be implemented.

In conclusion, ACCT on behalf of our governing boards nationwide thanks the Department of Education for the opportunity to respond to the NPRM. In whole, the association encourages the Department to consider state and regional differences across rules and the treatment of programs with few to no borrowers.

For more information or with questions, please contact ACCT Vice President, Public Policy, Carrie Warick-Smith at cwsmith@acct.org.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jee Hang Lee".

Jee Hang Lee
CEO
Association of Community College Trustees