June 20, 2023

U.S. Department of Education
400 Maryland Ave. SW
Washington, DC 20202

Re: Notice of Proposed Rulemaking: Financial Value Transparency and Gainful Employment (GE), Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit (ATB); Docket ID ED-2023-OPE-0089

As the U.S. Department of Education (the department) considers comments on its notice of proposed rulemaking (NPRM) on gainful employment (GE), the undersigned organizations respectfully submit the following comments. Jointly, our organizations have a strong interest in ensuring equitable access and strong outcomes for students enrolled in subbaccalaureate programs, as well as those enrolled in longer-term degree and career pathway programs.

Creating a framework for the assessment of quality and value of postsecondary credentials is an important undertaking – particularly for nondegree programs where students often enroll to improve their career and earnings prospects. However, the evaluation of programmatic quality is not always a straightforward endeavor and may include multiple measures of assessment. These can range from earnings and job placement to labor market demand and stackability. It can also include industry certifications and licensure. While we recognize that the department will likely pursue GE metrics based on debt and earnings, it is important to acknowledge the many ways in which programs benefit students.

We urge the department to take a cautious and thoughtful approach if it proceeds with an accountability metric that uses wage outcomes in GE regulations for Title IV eligibility. The ability to assess earnings relative to programmatic outcomes is not always clear-cut. The impact of the department's proposals remains unclear as we cannot fully know the result of eliminating Title IV access for programs serving hundreds of thousands of students. In the best cases, students will move to an alternative program that provides better outcomes and opportunities. In other cases, students see the cost burden shifted onto themselves or decide to no longer pursue a postsecondary credential altogether.

We also do not know what will happen to the programs that previously qualified for Title IV. Presumably, many of these programs will eventually cease to exist, and that very well could be a positive development. However, there will still be a fundamental demand for workers in some of these occupations whose programs may be terminated, such as medical assisting and dental support. It is unclear if states and employers will step up to fill in the gap to pay for education and training, or if the cost will shift to the student. It is important to recognize that students in programs that are ineligible for Title IV also take on postsecondary debt, but since we do not have data to assess the degree to which that occurs, they are often forgotten in the narrative of postsecondary outcomes.

While the undersigned groups have differing views on the merit of instituting a GE wage metric, we universally agree that, if it is retained, the NPRM's earnings premium (EP) metric should be refined to provide a more accurate picture of programmatic earnings outcomes. We have concerns regarding the use of a bright-line earnings floor as a single threshold for Title IV eligibility for GE programs, as it does not provide an accurate appraisal of return on investment or program quality. An earnings floor does not account for earnings gain and may fail some programs that have demonstrated significant benefit to students, while passing others that have little to no earnings benefit. A bright-line standard fails to adequately account for part-time workers, who are often caregivers. It also disadvantages programs that enroll primarily women, and in particular women of color, as many of those programs are less likely to meet wage eligibility thresholds due to longstanding wage inequities. The goal in calling for a more precise measurement is not to lower standards for groups that have been historically marginalized, but to better assess the actual return on investment for these programs.

The EP metric proposed in the NPRM also fails to account for wage variation within states. It is common to see earnings differences for like occupations throughout a state. Employers often make wage adjustments based on local norms or the cost of living for a particular region. Nationally, there are also currently 47 localities that have a minimum wage that is higher than the state minimum wage.[i] Establishing a singular state standard will likely provide an advantage to in-person and hybrid programs in metropolitan areas while disadvantaging those in rural areas, including many tribal colleges. If the department proceeds with an earnings premium based on median high school earnings, we urge the department to look beyond state-level medians and instead consider median earnings at the county or regional level, accounting for disparities in metropolitan areas.

Another way to improve the NPRM would be to implement a dual metric to assess programmatic value relative to wages – whereby programs must pass either an earnings threshold or a wage progression metric. Individually, both the wage progression metric and the bright-line earnings threshold have flaws. The bright-line threshold fails to account for racial, ethnic, and gender earnings disparities, lower earnings of part-time workers, and actual wage gains across a cohort. It is a weak metric in terms of assessing return on investment to individual students, and fundamentally disadvantages programs that are in rural areas or enroll a disproportionate number of women and students of color. Also, as outlined, the NPRM does not sufficiently account for variations in wages within a state.

Conversely, while a wage progression model addresses many of the shortcomings of a bright-line wage threshold, it disadvantages programs where students already have a higher level of pre-enrollment earnings. For example, students enrolling in IT certificate programs may see a smaller wage progression in terms of percent gain because they often already work in IT, which is typically a well-paying sector. While there is risk that institutions could seek out students who have no earnings prior to enrollment in order to game the programmatic wage progression metric, we believe this could be reasonably addressed by the department in the refinement of this metric.

Ultimately, we believe it is incumbent upon the department to address the weaknesses in the proposed median high school wage threshold. The loss of programmatic eligibility for Title IV should not be taken lightly given the potential adverse impact on some students. We thank you for your consideration and look forward to further discussion.

Sincerely,

Advance CTE
American Association of Community College
Association for Career and Technical Education
Association of Community College Trustees
Higher Learning Advocates
Jobs for the Future
National Skills Coalition

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[i] https://www.epi.org/minimum-wage-tracker/