UNIVERSITY OF CALIFORNIA

BERKELEY • DAVIS • IRVINE • LOS ANGELES • MERCED • RIVERSIDE • SAN DIEGO • SAN FRANCISCO SANTA BARBARA • SANTA CRUZ

Graduate, Undergraduate and Equity Affairs

OFFICE OF THE PRESIDENT
1111 Franklin Street
Oakland, California 94607-5200

June 20, 2023

Via Federal eRulemaking (www.regulations.gov)

The Honorable Nasser Paydar, Ph.D
Assistant Secretary for Postsecondary Education
U.S. Department of Education
Office of Postsecondary Education
LBJ Building, 400 Maryland Ave. SW
Washington, DC 20202.

Re: Docket No.: ED-2023-OPE-0089-0001, Financial Value Transparency and Gainful Employment, Financial Responsibility, Administrative Capability, Certification Procedures, Ability to Benefit

Dear Dr. Paydar:

On behalf of the University of California (UC), one of the country's premier public research university systems, with approximately 20% of our more than 300,000 students participating in federal loan programs, we appreciate the opportunity to comment on the proposed rules on financial value transparency and gainful employment, financial responsibility, and administrative capability.

UC recognizes and supports the Department's goal of protecting students from the irresponsible and predatory actions of certain institutions, including those programs that fail to effectively enhance students' skills and/or that close prior to the student receiving the full benefit of their investment. With such a vast and complex set of rules, we present several items of concern but would stress this may not capture the full scope of UC's feedback given the brevity of the comment period. The comments below raise unintended consequences of the rules as currently outlined and defined. Recommendations are also supplied and issued by section; they are not necessarily tied or contingent upon others in the same section.

A few highlights include:

- The proposed rules will deter students from pursuing careers in high-need and typically lower-paid fields, such as teaching and social services.
- The transparency framework creates a false equivalency between non-GE programs and financial outcomes since those programs prepare students for a broad array of jobs and careers.

- The disclosure requirements present obstacles to serving enrolled students' basic needs and come too late in the admissions process to fulfill the intended goal of financial transparency to affect college enrollment decisions.
- The data required will take significant development time leading to approximately $1.7 million in additional budget expenses in the first year to our campuses.

Financial Value Transparency and Gainful Employment (GE)

The proposed regulations in this section intend to place a level of responsibility on institutions for extraneous factors, such as market needs and social/private values for certain high-need professions. While implementing the transparency framework as designed may lower overall borrowing, it may have deleterious effects on underserved and underrepresented groups who may sacrifice basic needs, like food and housing, for fear of borrowing. Responsible borrowing is often appropriate for those who cannot and should not work while attending full-time (e.g. learning or physical challenges, family obligations, etc.). In addition to gift aid, loans are resources that help students meet their basic needs beyond tuition. The proposed regulations appear to be at odds with section 668.16(s) where reasons cited for timely disbursement of aid include students' ability to stay enrolled and cover basic needs expenses.

We agree that students should be better off in earnings potential than a high school graduate after attending a postsecondary program; however, the unilateral application of the debt and earnings (D/E) and earnings premium metrics do not adequately balance transparency with the value of these programs beyond financial gain, particularly for non-GE degree programs which are designed largely to provide knowledge and skills that are applicable to a variety of jobs and careers.

Further, as the Department noted, additional information and disclosures may not have an impact on enrollment choices as was found with the College Scorecard outcomes. Attracting and maintaining the attention of students is a tall task. We agree that timing and access points outside of the student process are helpful, but the proposed timing of the admissions and enrollment phases are still very late.

668.404 Calculating Earnings Premium Measure

The Department's assessment of an earnings premium (EP) seeks to address those programs that may have low debt-to-earnings ratios, but whose median earnings for graduates do not exceed the median earnings of high school graduates in the state. This measure is problematic for three reasons, 1) it fails to account for graduates who choose to pursue other career or life options, 2) it does not account for a significant volume of high-salary positions in high-cost-of-living states like California, and 3) focuses solely on earnings as the premier value of attendance in the programs. The Department noted it will not publish EP measures for programs with fewer than 30 students completing in the designated cohort period which incurs a cost to the institution for data collection with no expected output.

The EP does not account for graduates who change jobs and careers or relocate to lower-earning areas either in or outside of the state, among a myriad of actions that may be contingent on market conditions. For example, in economic recessions, job supply dips often force job seekers to take up any available job, which may be lower-paying and not a position in their intended field or may result in their relocation to a lower-cost area. The impacts on their incomes can last over a decade.[1]

The EP may also be an inaccurate measure for states such as California, where the median income sits higher than the national average. This is likely due to the state law that required an increase to a $15 minimum wage[2], as well as a large number of high-wage jobs such as those in engineering and technology. This disadvantages programs intended to fill a public need, such as teaching[3] and social services, areas that are typically underpaid and have wide starting salary ranges based on location in the state.

The EP also places sole focus on earnings as the premier outcome of a program. As stated in the preamble, there are many benefits to educational programs that stand apart from earnings. Knowledge, skill development, civic engagement, and motivation are several outcomes that benefit the graduate and society at large as a result of attendance in postsecondary education. These values and gains are lost in this narrow measure.

<u>Recommendations</u>

- Given the volatility of graduates' career paths for non-GE programs, we recommend these programs be excluded from the earnings premium measure as it has no meaningful information on a student’s financial outcomes.
- We recommend that programs not be subject to the data collection requirements if they do not have the minimum number of graduates noted.
- We recommend programs be excluded which lead to roles in public service as defined for the Public Loan Forgiveness program to avoid further exacerbating supply constraints in those critical fields.

668.405 Process for Obtaining Data and Calculating D/E Rates and Earnings Premium Measure

The completer list noted does not account for undocumented students who may participate in our programs. We have approximately 4000 undocumented undergraduates and more than 200 undocumented graduate students each year. Our campuses may have concerns over data privacy and sharing of their information with the Federal agency where individual earnings would be obtained. Additionally, there may be students who do not have a Social Security Number or taxpayer identification number by which to match their data. This may lead to inaccurate measures.

<u>Recommendations</u>

---

[1] Schwandt, H. & Wachter, T. (2019). Unlucky cohorts: Estimating the long-term effects of entering the labor market in a recession in large cross-sectional data sets. *Journal of Labor Economics*, *37*(1). https://www.journals.uchicago.edu/doi/pdfplus/10.1086/701046

[2] https://www.dir.ca.gov/dlse/faq_minimumwage.htm

[3] Average starting teacher salary in 2020-21 for California as $51,600. 97% of districts report a minimum of $40,000 starting salary. https://www.nea.org/resource-library/educator-pay-and-student-spending-how-does-your-state-rank/starting-teacher

- We suggest the Department allow, but not require, campuses to exclude students who are not eligible for federal aid from all reporting requirements, including aggregate program information.

668.407 Student Disclosure Acknowledgment

This section requires current and prospective students to acknowledge having seen information on the disclosure of programs that fail D/E rates measures, with a noted 'cooling off' period before prospective students could enroll or register and prior to disbursing Title IV aid.

As the Department noted, there are non-pecuniary benefits of schooling. This regulation places programs that serve high-need and historically underpaid fields, such as K-12 teaching credential programs, at a disadvantage based on extraneous market and social factors. These regulations would seem to further exacerbate supply constraints if the key value of these programs is placed solely on the debt-to-earnings ratio. Further, non-GE programs offered at the undergraduate level at UC are not tied to specific career options on the whole. As such, graduates have a wide array of options in terms of the careers they could and will pursue.

Preventing the disbursement of Title IV aid to an enrolled student in a program that fails D/E rates poses a retention risk. Students need their financial aid to pay rent, buy food, and meet other basic needs. Requiring they acknowledge the disclosure when they may be in the middle of their program imposes undue harm. In 668.14(b)(34) the Department addresses institutions that prevent students from taking out federal financial aid to which they are entitled as steps that pose barriers to a student's ability to afford basic necessities. However, the Department's requirement here for acknowledgment of the D/E and earnings premiums pose similar obstacles to currently enrolled students. Further, requiring acknowledgment of a prospective student before they commit to enrolling at an institution requires system modifications which require funding and time to implement. Additionally, it may not achieve the intended transparency goals depending upon the timing of the Department's notice to the campus. For example, the objective would be unobtainable if the Department gives notice in late May after the May 1 statement of intent deadline where students are required to commit to one campus to which they were admitted.

It is also unclear how the information is expected to be presented. As noted by the Department, information must be easy to understand and navigate. We would refer to the Department's entrance counseling as an example where the setup, length, and language composition make such critical information difficult to digest, and create a circumstance where students will skim over to do only what is required.[4] Students already have substantial amounts of information presented to them by each campus of interest. Therefore, it seems unreasonable to expect students to similarly read and digest the information on debt and earnings on a Department's website. As mentioned earlier in this section, the timing of this requirement seems too late to have a large sway on student enrollment decisions, particularly if they are in the middle of their program.

<u>Recommendations</u>

---

[4] Fernandez, C., Fletcher, C., Klepfer, K., & Webster, J. (2015). A time to every purpose: Understanding and improving the borrower experience with online student loan entrance counseling. TG Research. Retrieved from: http://www.tgslc.org/research/.

- Publicizing and directing students to the information in high school during senior year or earlier time points may be more fruitful for engagement and for impacting student college program choice.
- We propose that non-GE programs be excluded from this section. Non-GE programs are not tied to any particular career. Holding program areas defined by the CIP code to the median earnings of graduates from that program area creates a false equivalency between those degrees and financial outcomes for the individual student.
- We propose these conditions exclude GE and non-GE programs tied to job market areas in high need that are also accompanied by loan forgiveness options, such as credential programs leading to K-12 teaching careers, positions in social service agencies, or other public service areas.

668.408 Reporting Requirements

This section requires institutions with GE and non-GE eligible programs to report institutional and student-level data. A couple of data points are currently collected by the Department via the National Student Loan Database, such as CIP codes and program duration. However, many of the other data elements listed at the student level would necessitate additional time and budget as campuses would need to work with local IT and potentially third-party servicers to implement these changes.

Securing institutional debt at the student level is problematic as student accounts may no longer be active at the institution. For example, campuses may refer accounts to a contracted debt collections agency if a student is no longer enrolled. The building of data elements to very large data files can take upwards of six months of development time and result in an estimated $1.7 million implementation expense across our ten campuses.

<u>Recommendations</u>

- The required data elements for all programs present a substantial increase in financial resources needed to implement the data collection as defined. We would propose that a final rule on November 1, 2023, is not effective until November 1, 2024, to allow for sufficient development time.
- We would propose that non-GE programs be excluded from this section for the same reasons cited above in recommendations for *Student Disclosures*.
- We propose that the information required exclude institutional debt as this is collected directly from the student and is not tied to federal investment. These debts at our institutions are typically the result of a student discontinuing enrollment, often as a result of not meeting satisfactory progress standards, and where they were provided services. Alternatively, the Department could use the Return to Title IV record submission from the campus to estimate the average remaining institutional debt.

668.605 Student Warnings and Acknowledgments

This section would require gainful employment programs to issue warnings in English, as well as accurate translations of the warnings into the primary languages of current and prospective students with limited English proficiency. While we do not anticipate our gainful employment programs to be required to issue such warnings, our current and prospective students stem from a variety of backgrounds and cultures. It may be challenging to anticipate all languages for which a translation may be needed. It may also be challenging to ensure all relevant information is captured in the warning without more specific guidance.

Further, this section limits the delivery of the warning to the email on file, orally, or by hand delivery to prospective students or third parties that contact the campus on their behalf. Because prospective students may contact a number of staff on a large campus, it is not feasible to ensure each person is aware of the warning on a particular program at that campus, particularly if they do not work for that unit.

<u>Recommendations</u>

- We suggest a template format and content be produced that meets the expectations of the Department, one that can be used unilaterally for consistency across colleges and universities.
- We suggest indicating the minimum required languages for translation, or for the Department to provide these translation templates to campuses.
- We recommend allowing the warning to be posted on admissions materials promoting the program, and/or as disclaimers on admissions applications or enrollment forms for the specified programs as ways to satisfy the requirement. This provides a direct presentation to the student prior to applying or enrollment in case they do not speak to a staff person who works for the program that is required to issue the warning.

General Provisions

668.171 General

668.17(g) indicates public institutions, including those such as the University of California, are considered financially responsible when they provide a letter from an official of the government entity or other signed documentation acceptable to the Department affirming the institution is backed by the full faith and credit of the government entity. It is unclear why this step is necessary if the Department has information on which colleges and universities are categorized and classified as public institutions. Further, how would a letter from the government entity demonstrate financial responsibility over independent financial audits that are already in place and routine?

<u>Recommendations</u>

- We suggest the regulation cite that states are responsible for providing this information directly to the Department if the Department considers this reaffirmation necessary.
- We recommend processes already in place, such as independent financial audits, be used in place of a government letter to substantiate fiscal responsibility.

668.14 Program participation agreement

Section 668.14(b)(33) prohibits institutions from holding transcripts or taking any other negative action against a student related to a balance owed by the student for specified events. We agree that an administrative error on the part of the institution should not negatively impact a student, however, holding institutions responsible for Return to Title IV debts will incur costs to current and future students as those debts are tied to instructional costs and services provided. This section seems to eliminate all the tools available to institutions to help and assist these students. For example, institutions withhold diplomas or prevent a student from enrolling in future classes as a means to engage in a conversation with the student before an institution pursues more drastic steps. These conversations allow institutions and their contractors to provide much-needed financial literacy and work with the student/former student on resolving their debt within that student's current financial means. Eliminating these tools eliminates these financial literacy education conversations. Ultimately, students are harmed by not having these discussions and possibly further by having lower credit scores due to not having these conversations.

Return to Title IV debts are small at the University of California, but they represent the true costs to the institutions for educating and in some cases housing students. When they go unpaid, our campuses offset these debts with institutional aid which decreases this aid for future students, thereby increasing costs to those future students. We contract with debt collection agencies in hopes to recoup some of these funds. Schools are not equipped or resourced to collect outstanding debt. Institutions rely on their contractors to locate former students and contact them to address their outstanding debts. This infrastructure does not exist on college campuses. Building it would be expensive – resources that would be better directed to educational services, addressing food insecurity, or providing mental health services.

Recommendations

- Limit the prohibited actions for Return to Title IV debts to the withholding of transcripts. Other actions, such as holding diplomas or holding future enrollment do not impede a student from enrolling elsewhere if they can transfer the coursework they completed and secure transcripts.
- Allow campuses to retain federal funds for students who withdraw if their Return to Title IV portfolio falls below a designated threshold (e.g. average of 5% return over last three years) of their total federal aid disbursements in a year. Campuses could continue to report the R2T4 calculations for the Department to assess this measure in future years to determine if they are exempt from returning these funds and thus prohibited from billing for the portion of the account paid by these federal funds.

668.16 Standards of administrative capability

While the noted intent is to ensure institutions that administer Title IV aid have sufficient internal capacity to adequately administer the programs, the collection of information on the number of career service staff (668.16(q)) does not provide a definition of what is deemed sufficient. The subjective nature of the regulations does not substantiate the direct relationship between securing employment and need for the staffing information.

668.16(r) requires institutions to provide geographically accessible clinical or externship opportunities within 45 days of completion of coursework related to the required completion of licensure or credential. UC program locations are situated in one of ten cities in California. While campuses typically have built-in relationships with local clinical and externship opportunities, there may be occasions where it serves the student's best interest to obtain an opportunity in an underserved location. The designated time period may unduly limit students who would opt for alternative sites.

Recommendations

- We suggest the Department issue an expected staff-to-student ratio as a bar for campuses to demonstrate administrative capability. Administrative units can then use this ratio to advocate for additional staff funding from their budget offices.
- We recommend that any identified student/staff ratio for career services come with identified principles that establish the purpose and justification for the ratio as well as the methodology used to determine the baseline.
- We suggest allowing for clinical or externship opportunities that are geographically distant from the student's location if the position serves an identified core program goal noticed to the student prior to enrollment (e.g. tied to the public good such as serving underserved communities), and is a position in which the student agrees to serve or participate.

We commend the Department's efforts to protect students and taxpayer investments and appreciate the opportunity to comment on the proposed regulations. We welcome questions and additional engagement.

Sincerely,

Shawn Brick
Executive Director, Student Financial Support
University of California, Office of the President

cc: U.S. Secretary of Education, Miguel Cardona
UC Provost and Executive Vice President, Katherine Newman
UC Federal Government Relations Associate Vice President, Chris Harrington